INSTITUTES

OF

MORAL PHILOSOPHY.

BY

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INSTITUTES OF MORAL PHILOSOPHY.

INTRODUCTION.

SECTION I.

Of Knowledge in general [1].

ALL knowledge is either that of particular facts, or that of general rules.

The knowledge of facts is prior to that of rules; and is the firſt requiſite in the practice of arts, and in the conduct of affairs.

A general rule is the expreſſion of what is common, or is required to be common, in a number of particular caſes.

General rules are the reſult of obſervation, or will; and conſequently are derived from mind.

[1] Bacon's novum organum.

Practice, or conduct of any ſort, though regulated by general rules, has a continual reference to particulars.

In ſpeculation, we endeavour to eſtabliſh general rules.

In practice, we ſtudy particular caſes, or apply general rules to regulate our conduct.

SECT. II.

Of the Objects of Study.

THESE are, Hiſtory, Science, and Art.

Hiſtory is the knowledge of particulars in detail.

Science is the knowledge of general rules, and their applications.

Art is the application of knowledge to practice.

Any general rule, expreſſing what is fact, or what is right, is termed *a law of nature.*

A general rule, when applied to explain or regulate particulars, is termed *a principle;* and explanations or injunctions from principle, are termed *theory* or *ſyſtem.* The particulars to be explained are termed *phenomena.*

Method in ſcience is of two kinds; analytic, and ſynthetic.

Analytic method, is that by which we proceed from obſervation of fact, or right, in particular caſes, to eſtabliſh general rules.

Synthetic method, is that by which we proceed from general rules to their particular applications.

The firſt is the method of inveſtigation.

The ſecond of communication, or of the enlargement of ſcience.

Argument is of two kinds:

A priore, and *a poſteriore*.

By an argument *a priore* the fact is proved from the law.

By an argument *a poſteriore*, the law is proved from the fact.

SECT. III.

Of the laws of Nature.

MOST ſubjects in nature may be conſidered under two aſpects.

1. In reſpect to the fact, or to their actual ſtate.

2. In reſpect to the excellence of which they are ſuſceptible.

Any general expreſſion of the fact, or of the excellence required, may be termed, *a Law of Nature*.

The laws of nature are either phyſical or moral.

A phyſical law is the general expreſſion of a fact, uniform to a certain extent, in nature.

A moral law is a general expreſſion of the excellence required in any ſubject; more particularly, of the rectitude required in human affairs.

Phyſical laws ſtate what is uniform, more eſpecially in the operations of nature.

In every operation, men are diſpoſed to apprehend an operating power or cauſe.

Cauſes are of two kinds:

Efficient, and final.

The efficient cauſe, is the energy or power producing an effect.

Although the nature of this energy is not known in any caſe whatever, yet in every operation we conſider that as the cauſe which precedes or attends the operation, and to which the effect is always proportional.

The final cauſe, is the end or purpoſe for which an effect is produced.

In ſuppoſing final cauſes, we ſuppoſe the exiſtence of mind.

Phyſical ſcience is the knowledge and application of phyſical laws, or of efficient cauſes, to explain and account for appearances.

Moral ſcience is the knowledge of what is right and proper in the actions and characters of men.

A phyſical law exiſts ſo far only as it is the fact.

A moral law exiſts in being obligatory.

The ſubjects from which phyſical laws are collected, may be claſſed under four principal heads:

Mechaniſm, vegetation, animal life, and intelligence.

It has not hitherto been made appear, although ſometimes attempted, that theſe operations can be comprehended under the ſame phyſical laws.

The phenomena of vegetation are not comprehended under any known law of mechaniſm, much leſs thoſe of animal life or intelligence.

The ſubjects of moral ſcience are, any matters of choice, together with the nature and actions of free and voluntary agents.

The immediate uſe of phyſical laws, is theory.

The immediate uſes of moral law, are choice, practice, and conduct.

SECT. IV.

Of Theory.

PHYSICAL ſcience conſiſts in theory.

Theory conſiſts in referring particular operations to the principles, or general laws, under which they are comprehended; or in referring particular effects to the cauſes from which they proceed.

To inveſtigate or to point out any general rule or law of nature, in which any particular fact is comprehended, is to account for that fact.

Thus Sir Iſaac Newton accounted for the planetary revolutions, by ſhowing that they were comprehended in the laws of motion and gravitation.

To pretend to explain phenomena, by ſhowing that they may be comprehended in a ſuppoſition or hypotheſis, or by applying to them metaphorically, the language proper to any other ſubject, is illuſory in ſcience.

Thus the vortex of Deſcartes, being a mere ſuppoſition, could not explain the planetary motions; and the terms, *idea*, *image*, or *picture*

of things, being terms merely metaphorical, cannot explain human knowledge or thought.

All phenomena, though not comprehended under any known law, are proper materials of natural hiſtory.

All facts that cannot be explained by any rule previouſly known, or better known than the facts themſelves, may be termed *ultimate facts.*

It is evident, that all theory muſt reſt on ultimate facts.

To require explanation or proof *a priore* for every fact, were to ſuppoſe that human knowledge requires an infinite ſeries; which is impoſſible.

SECT. V.

Cauſes that have retarded the progreſs of Science.

1. THE neceſſary avocations of human life.

2. The love of ſyſtem, and impatience of delay, in the ſtudy of particulars.

3. Emulation of ſpeculative men, and deſire to ſupplant each other as founders of ſects.

4. Prejudice, national or perſonal.

5. The difficulty of penetrating appearances, to diſcover what operations are like, what different.

6. Affectation of acuteneſs, or novelty in conteſting the evidence of ultimate facts.

7. Vain deſire of accounting for ultimate facts.

The principal errors of human reaſon are, on the one hand, a raſh aſſent, without proper evidence, and, on the other, indiſcriminate ſcepticiſm, or the deſpair of knowledge.

Sect. VI.

Maxims of Reaſon, to be followed in ſpeculation, as well as in common life.

Every inquiry proceeds upon a ſuppoſition that ſome meaſure of knowledge is attainable in the ſubject to which the inquiry refers. If we deſpair of knowledge, we ſhall ceaſe to inquire.

The evidence of reality is various and unequal in different inſtances; but, in the univerſe, is ſufficient to open our view into the order of Nature, and, in matters of importance to human life, is ſufficient to decide our conduct.

All evidence may be referred to four titles, Conſciouſneſs, Perception, Teſtimony, and Inference.

1. It is the firſt maxim of reaſon, that nothing is to be admitted without that degree of evidence with which it ſhould be attended, if true, and that, with this degree of evidence, nothing is to be rejected.

2. That nothing be aſſigned as a law of nature, until it be known as a fact in nature.

In general, it is ſafer to direct our early ſtudies to the inveſtigation of the laws of nature, than to the aſſignment of cauſes. In the latter, we are more apt to acquieſce in partial repreſentations, hypotheſes, or unconſidered appearances.

3. That facts, uniform as far as our knowledge of the ſubject extends, be deemed univerſal laws of nature reſpecting ſuch ſubject.

4. That partial laws be not extended beyond the conditions and limitations under which they are known to take place.

5. That like phenomena be referred to the ſame laws.

6. That no proof or explanation be required of ultimate facts.

SECT. VII.

Of Moral Philoſophy.

ALTHOUGH Moral Philoſophy is not the knowledge of *what is*, but rather of what *ought to be;* yet, before we can aſcertain rules of morality fitted to any particular nature, the fact relating to that nature ſhould be known.

Before we can aſcertain rules of morality for mankind, the hiſtory of man's nature, his diſpoſitions, his ſpecific enjoyments and ſufferings, his condition and future proſpects, ſhould be known.

From a proper collection of ſuch materials, we ſhould be able to aſcertain what is beſt for mankind, and to aſſign to every particular in human life its comparative value, and real place in the eſtimate of human affairs.

This, however, is not to be done without a fair enumeration of the articles which men are diſpoſed to think of importance.

Pneumatics, therefore, or the phyſical ſcience of mind, ſo far as it is to be collected from human nature, is the foundation of moral philoſophy.

SECT. VIII.

Of Pneumatics.

PNEUMATICS treat phyſically of mind or ſpirit.

This ſcience conſiſts of two parts.

The firſt treats of man; the ſecond, of God.

That part which treats of man, may contain the hiſtory of man's nature, and an explanation or theory of the principal phenomena of human life.

That which treats of God, contains the proofs of his exiſtence, attributes, and government.

As the obſervation of particulars in every ſubject, ought to precede the attempt to eſtabliſh general rules, the hiſtory of man's nature is the foundation of every ſcience relating to him.

This hiſtory conſiſts of facts, of which ſome occur on a general view of the ſpecies; others occur to the individual, in recollecting what paſſes in his own mind.

The firſt may be termed, *the hiſtory of the ſpecies;* the ſecond, that *of the individual.*

In the theory of human nature are ſolved queſtions relating to the characters of men, to the nature and future proſpects of the human ſoul.

INSTITUTES
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MORAL PHILOSOPHY.

PART I.

THE NATURAL HISTORY OF MAN [2].

CHAP. I.

HISTORY OF THE SPECIES.

SECT. I.

General arrangement.

THE hiſtory of the human ſpecies contains the following articles:

1. The form and aſpect of man.
2. His reſidence, and manner of ſubſiſtence.
3. The varieties of his race.
4. The period of his life.
5. His diſpoſition to ſociety.

[2] See Buffon's Natural Hiſtory.

6. Population, or the generations and numbers of mankind.
7. Varieties of choice and purſuit.
8. Arts and commerce.
9. Diſparities of rank and eſtimation.
10. Political eſtabliſhments.
11. Language and literature.

SECT. II.

Of the form and aſpect of Man.

THE human form is erect, furniſhed with articulations and muſcles fitted to retain this poſture, and to move it with eaſe and ſafety.

The hand and the arm of man is an inſtrument and a weapon, not a prop or ſupport to his body.

His form and poſture are well fitted to obſervation, to the uſe of reaſon, and to the practice of arts.

His aſpect is expreſſive of his thoughts, ſentiments, and intentions. It is calm or agitated; mild or fierce; languid or ardent; doubtful or decided; timid or intrepid.

His natural expreſſions conſiſt of actions, geſtures, ſmiles, frowns, tears, looks, together

with changes of color; and exhibit, on the whole, a variety, and a grace, which either do not take place, or are not obſerved in other animals.

He is naked and unarmed; but, by his invention, qualified to ſupply theſe defects.

The final cauſe appears to be, that his talent for invention ſhould be employed.

SECT. III.

Man's reſidence, and manner of ſubſiſtence.

OTHER animals have their ranges on the earth, beyond which they do not willingly ſtray, or beyond which they are not qualified to ſubſiſt.

Some ſubſiſt only in the hot climates, others in the cold or the temperate; but man reſides equally in every climate, and can ſubſiſt on great varieties of food, both animal and vegetable.

He either accommodates himſelf to the inconveniencies of his ſituation, or learns to ſurmount them.

SECT. IV.

Varities of the human race.

UNDER the general form and aſpect of mankind, there are conſiderable varieties of the race.

Men being diſperſed over the face of the earth, receive the influences of climate, ſituation, and ſoil.

The animal and rational temperament, is comparatively phlegmatic and dull in cold climates; is more ardent and quick in warm climates; but has always poſſeſſed a diſtinguiſhed ſuperiority in the temperate.

Apart from theſe diſtinctions, the diverſities of race are marked by a difference of ſtature, features, and complexion.

Mankind may be referred to ſix different races.

The *European*, the *Samoeide*, the *Tartar*, the *Hindoo*, the *Negro*, and the *American*[3].

[3] Buffon of the varieties of the human race.

SECT. V.

Period of human life.

EVERY ſpecies of animal is preſerved by ſucceſſion.

The death of one generation is as much a part in the order of nature, as the birth and ſucceſſion of another.

In the human ſpecies, according to ſome obſervations, half the numbers that are born die before the ſeventeenth, the ſeventh, or even the third year of their age is expired.

Long life[4], in all climates, conſiſts of between ſeventy and a hundred years.

It appears from the annual regiſter of deaths where the numbers of people are known, that about one in thirty dies each year:

That, of twenty-ſeven or twenty-eight, one is born:

That about a fourth of the whole number are males between eighteen and fifty-ſix, able to carry arms.

[4] Buffon's Natural Hiſtory. Halley's Tables. Lowthorp's Abridgment of the Philoſophical Tranſactions, vol. 3. p. 669.

SECT. VI.

Diſpoſition of Man to ſociety[5].

ANIMALS have been diſtinguiſhed into two claſſes; the ſolitary, and the ſocial.

Animals of prey, for the moſt part, are ſolitary.

Other animals are, for the moſt part, aſſociating.

The aſſociating may be farther ſubdivided into two kinds:

1. Thoſe which aſſemble in flocks or herds, merely for company or ſafety:

2. Thoſe who unite their labors for ſome common purpoſe, and diſtribute the burdens of the community according to ſome rule of inſtinct or of reaſon.

The latter are aſſociating and political. Man, though an animal of prey, and, from neceſſity or ſport, addicted to hunting or war, is, nevertheleſs, in the higheſt degree, aſſociating and political.

Societies may be referred to four general claſſes. Families, companies, nations, and empires.

[5] Eſſay on the Hiſtory of Civil Society, part 1. ſect. 3.

Families are united by affection; companies by the desire of society; nations by the desire of security; and empires by force.

Men, by their confederacy, as well as by their artifice, are enabled to subdue every other species of animal, to subsist by their spoils, and to employ the strength of other animals, though superior to their own.

Separate societies are, for the most part, rivals or enemies [6].

SECT. VII.

Of Population [7].

MEN exist in greater numbers than any other species of the larger animals.

In some cases they are found to increase, in others to decrease in their numbers.

The quick or slow increase of animals, in general, depends on the physical laws of propagation, on the security, and the means of subsistence the species enjoys.

[6] Essay on the History of Civil Society, part 1. sect. 4.

[7] Ibid. part 3. sect. 4. Wallace's Numbers of Mankind. Hume's Populousness of ancient nations.

The first relate to the age at which the parent becomes prolific; to the time that elapses in pregnancy; to the frequency of breeding; to the numbers of each brood; and to the period during which the parent continues prolific.

The laws of propagation determine the numbers that may spring from any single pair; and the numbers of generations that may subsist together.

These laws, in every species of animals, are, in favorable circumstances, sufficient to its increase.

Men, in every secure situation, people up to their resources; and the aid of government is required, not to improve on the laws of propagation, but to bestow security and plenty.

Animals of prey have most difficulty in procuring their food.

Animals which are made a prey are least secure.

The security and subsistence of men are most impaired by their own mutual hostilities and oppressions.

The laws of propagation, as well as the means of subsistence, are supposed most favorable to population in the warmer climates. To this it is imputed that nations in those climates are populous, even under great defects of government.

SECT. VIII.

Varieties of choice and purſuit.

MEN have not, like the other animals, a fixed and determinate choice of external objects and purſuits.

Nations are frequently, by the difference of their manners and cuſtoms, mutual objects of wonder and cenſure, of contempt and averſion.

Even of two men placed in the ſame or like circumſtances, one acquieſces, or is pleaſed; the other complains.

They differ in reſpect to the means which they employ for the attainment of the ſame, or of ſimilar ends.

SECT. IX.

Arts and Commerce [8].

THE materials which men are concerned to provide may be referred to five general titles, the means of *ſafety*, *ſubſiſtence*, *accommodation*, and *ornament*.

[8] Harris on Coins.

These considerations lead to the practice of many arts, which are more or less successful in proportion as they are multiplied, separated, and complete.

They also suggest the advantages of property and wealth.

The consideration of safety leads to the invention of arms, and places of retreat.

The earliest weapons appear to have been the club, the sling, and the bow: To these succeeded, in process of time, the spear and the sword, joined to the buckler or shield;

Fire-arms, cannon, and then musketry.

The desire of retreats has given rise to the art of fortification.

The art of war, in every age, must be accommodated to the species of arms, engines, and methods of fortification in use.

The arts which men practise for subsistence are, fishing, hunting, pasturage, and agriculture.

Nations that know least of the means of subsistence, not finding enough in the spontaneous growth of the earth, have recourse to hunting and fishing.

In the result of these arts, the hunting-ground, the lake, the river, or the bay, may be appropriated to the society; but the game is seldom appropriated to the individual.

Nations that have obſerved the method and the advantage of breeding herds, betake themſelves to paſturage.

They, at firſt, generally migrate, or wander with their herds.

The individual acquires an immediate property in cattle, but not in land.

Nations that are acquainted with the uſe of herbs, fruits, and grain, which do not grow ſpontaneouſly, or do not grow in ſufficient quantities, betake themſelves to agriculture.

The culture of land, to a certain degree, may precede property, as it did among the ancient Germans [9], and among the nations of North America.

Agriculture, where the object is the temporary produce of land, is compatible with migration: Where the object is the improvement of ſoil, and perpetual fertility, agriculture requires ſettlement, and the property of land.

As the property of land excites to invention in agriculture, it likewiſe excites to invention in other arts.

[9] Vide Cæſar, lib. 4. cap. 1.; and lib. 6. cap. 22. Charlevoix's Hiſtory of Canada.

They who have no land, betake themſelves to manufacture, that they may have wherewith to buy the produce of land.

By manufacture, men are furniſhed with the means of accommodation and ornament.

The means of accommodation are, clothes, houſes, furniture, utenſils, equipage.

Men, in different ages, are unequally furniſhed with theſe articles; they even ſubſiſt without them; but, in the ruder climates, under ſuch inconveniencies, as diminiſh the numbers of the ſpecies, or prevent their increaſe.

The means of decoration are ſuch things as pleaſe the fancy, without being neceſſary or uſeful.

Men, in all ages, are fond of decoration; they combine ornament with the means of ſubſiſtence and accommodation; but they may ſubſiſt, and enjoy every conveniency, without regard to ornament.

Ornaments are principally made of rare materials; as gems, precious metals, &c.

Riches conſiſt in the abundance of things that conduce to ſafety, ſubſiſtence, accommodation, and ornament.

Riches are the reſult of arts and induſtry.

Whatever ingenuity men exert in the practice of arts, their ſucceſs will depend on a proper diſtribution of their employments, and on their making a ſeparate buſineſs of each.

In making this diſtribution, the parties truſt that they may be able to exchange what they have to ſpare for what they want.

The progreſs of arts, as well as the caſual diſtribution of commodities, depending on ſituation, climate, and ſoil, render commerce expedient, or even neceſſary.

Commerce, in the ſimpleſt form, conſiſts of barter, without any ſtandard of valuation, or medium of exchange: Each party gives what he has to ſpare of one kind, for what he wants of another.

To extend trade, money, communication, and the interpoſition of merchants, are required.

The firſt money, or medium of exchange, was generally ſome ſtaple commodity, as corn, cattle, &c.

Theſe were things of uncertain value, of inconvenient bulk, periſhing or expenſive in the keeping, and not eaſily divided, without making a change of value.

To avoid theſe ſeveral inconveniencies, the precious metals have been admitted in every trading nation as the medium of exchange.

They are, for the greater conveniency, employed in the form of coin.

The pound, or other aſcertained weight or quantity of the precious metals, was employed as the ſtandard of valuation.

The coin of all nations has undergone conſiderable changes, both in reſpect to fineneſs and weight.

The preſent ſtandard for ſilver in England is 11 oz. 2 dw. fine, to 18 dw. allay.

For gold, 22 carats fine, to 2 carats allay.

The pound of ſtandard ſilver is cut into 62 ſhillings.

That of gold, into 42½ guineas.

The pound of ſilver was originally cut into 20 ſhillings: Hence 20 ſhillings are ſtill the nominal pound in money.

In the reign of Edward VI. the ſtandard of ſilver was greatly debaſed, and the coin greatly diminiſhed. The ſtandard conſiſted of three parts of fine to nine of allay; and the pound of this debaſed metal was cut into 72 ſhillings.

The ſtandard and weight of the coin have, ſince the reign of Elizabeth, remained the ſame.

Operations on the coin embarraſs trade, by perplexing tranſactions, and by alarming the intereſt of debtors and creditors.

If, in debaſing coin, the intereſt of the creditor is not guarded, he muſt be defrauded.

In raiſing the value of the coin, the debtor would be defrauded.

Moſt operations on coin have been of the former kind.

The uſe of coin, and actual payments in money, are not neceſſary in every commercial tranſaction.

In the transfer of great ſums, even the precious metals would be cumberſome and inconvenient.

To avoid this inconvenience, the practice of circulating bills has been adopted.

This practice is founded in credit, and tends to extend it.

Commerce employs a number of ſeparate profeſſions; the manufacturer, the factor, the carrier, the merchant, the retailer.

The price of commodities in trade is as their ſcarcity combined with their demand.

Articles, in the production of which, labor time, and ſkill, are required, continue to multiply, while the price is ſufficient to maintain the laborer during the time he is employed, to reimburſe his apprenticeſhip, and other expenſes, and to furniſh an adequate reward.

When the price falls below this meaſure, the manufacture is diſcontinued, until the ſcarcity brings up the price.

SECT. X.

Diſparity and Rank.

MEN are diverſified, in reſpect to their perſonal qualities and conditions.

The diſtinction of perſonal qualities ariſes from unequal ſtrength and capacity, unequal knowledge, reſolution, and courage, unlike diſpoſitions of benevolence or malice.

Theſe differences conſtitute either relations of dependence and power, or comparative degrees of eſtimation.

The ſtrong, the knowing, the brave, are powerful; the weak, the ignorant, the fearful, are dependent.

The benevolent are beloved; the malicious are deteſted.

The knowing, the generous, and the brave, are eſteemed; the ignorant, the ungenerous, and the cowardly, are contemned: and all the qualities of human nature being referred to

the predicaments of excellence and defect, one man is held to be more, another leſs worthy.

Men differ in their predilection of qualities conſidered as the conſtituents of excellence.

They prefer qualities the moſt neceſſary in their own ſituations, and the moſt eminent in their own way.

In dangerous ſituations, and in warlike ages, they chiefly admire valor.

In learned ſocieties, they admire knowledge and ingenuity.

In trading nations, they admire induſtry, punctuality, and fair dealing.

But there being ſome circumſtances common in the ſituation and diſpoſition of all mankind, ſuch as, their being united in ſociety, and concerned in what relates to their fellow-creatures; men univerſally admire qualities which conſtitute or procure the good of mankind; as, wiſdom, juſtice, courage, and temperance.

Such qualities are generally comprehended under the title of *Virtue;*

Oppoſite qualities, under the title of *Vice.*

The external conditions of men are ſometimes confounded with perſonal qualities, and appear to have the ſame effects.

The rich are powerful, the poor are dependent.

Riches and birth, even equipage and dreſs, are admired. The reverſe of theſe expoſes to contempt or neglect.

Diſparities are found in every ſtate of ſociety; they are greateſt where riches, power, and education, are moſt unequally diſtributed.

SECT. XI.

Of Political Eſtabliſhments [10].

WHERE men aſſociate from affection and choice, and with little ſenſe of private or of ſeparate intereſt, they have been known to ſubſiſt without rule or political eſtabliſhment.

Even where they aſſociate from a ſenſe of expediency or neceſſity, they follow, without rule, the ſuggeſtion of every particular occaſion.

But in maintaining an union which has ariſen from caſual coalitions, or force, ſocieties have been obliged to adopt, and to ſubmit to, government.

[10] L'Eſprit des Loix, liv. 2. Eſſay on the Hiſtory of Civil Society, part 1. ſect. 10. Ibid. part 3. ſect. 2.

Where the coalition was casual, or forced, individuals felt separate interests, and wished for rules to adjust their pretensions.

Some suffered themselves to be governed, and others pretended to government, on the footing of casual dependency and superiority.

The abuses of casual subordination have led men to think of positive institutions.

Positive institutions have confirmed, altered, or restrained, the powers which arise from casual subordination.

All the political institutions of men may be reduced to two general classes:

The simple, and the mixed.

Under the simple institutions, the supreme power is committed to a single person, or to a single assembly or body of men.

In mixed institutions, the supreme authority is exercised by a plurality of collateral powers.

Simple institutions are, democracy, aristocracy, monarchy, and despotism.

Democracy is the supreme power of the collective body.

This institution is calculated to correct, or to remove, the effects of adventitious dependency and subordination, and to reconcile equality with order.

Ariſtocracy is the ſupreme power of a particular rank or claſs of men.

This claſs of men has, in ſome caſes, been elective; in others, hereditary.

The inſtitution itſelf, though calculated to confirm the ſuperiority of one rank, and the dependence of the other, may, notwithſtanding, preſerve equality among the members of each claſs.

Monarchy is the ſupreme power of a ſingle perſon, who, placed at the head of many ſubordinate dignities, has an authority defined by laws.

This inſtitution is calculated to confirm adventitious dependency and ſubordination.

Extenſive and perpetual military arrangements have led to monarchical ſubordination.

Deſpotiſm is the ſupreme power of a ſingle perſon, aſſumed and maintained by force, on the ruin of every other pretenſion to rank.

Deſpotiſm has ariſen from conqueſt, or military uſurpation.

Mixed inſtitutions are, either mixed republics, or mixed monarchies.

In mixed republics, the ſupreme power has been ſhared betwixt the collective body, and a ſenate or convention of nobles.

In

In mixed monarchies, the ſupreme power has been ſhared betwixt a king and nobles, or betwixt a king, nobles, and people.

Sect. XII.

Language and Literature.

Language, in the moſt general ſenſe, comprehends all the external ſigns of thought, ſentiment, or will.

Signs are, either original, or conventional [11].

Original ſigns are ſuch as men are led by inſtinct to employ, and to interpret.

Such are, tones of the voice, change of features, and geſtures.

Conventional ſigns are ſuch as men have agreed upon, or rendered cuſtomary.

Conventional ſigns may be ranged under the three following heads.

1. Mute ſigns.
2. Speech.
3. Written characters.

Where men are reſtrained from the uſe of ſpeech, or are defective in the organs of hearing, or of pronunciation, they have recourſe to mute ſigns, and thereby attain, in a conſiderable degree, the purpoſes of language.

[11] See Reid's Inquiry into the human mind.

Nations employ unequal meaſures of action, and of mute ſigns, together with ſpeech.

Speech is univerſal to mankind, and peculiar to the human ſpecies.

Every ſeparate nation, or tribe, for the moſt part, has had a ſeparate language, or different dialect.

The theory of ſpeech, whether univerſal or particular, is the ſcience of grammar [12].

Written characters are the ſigns of words, or of articulate ſounds.

They are either verbal, or alphabetical.

Verbal characters are the ſigns of entire words.

Alphabetical characters the ſigns of elementary ſounds, or modulations; which being combined, conſtitute words.

Writing preſerves the memory of paſt tranſactions, of obſervation, and experience. It preſerves literary productions, and tends to improve and to extend the uſe of ſpeech.

Literary productions may be referred to three principal titles, *Hiſtory*, *Poetry*, and *Science*.

The firſt and third treat of realities.

The ſecond extends to invention or fiction.

Men have excelled in poetry, while they were yet rude in hiſtory or ſcience.

[12] See Harris's Hermes.

Chap II.

HISTORY OF THE INDIVIDUAL.

Sect. I.

General Arrangement.

The hiſtory of the individual contains the following articles.

1. Conſcioufneſs.
2. Animal ſenſe and perception.
3. Obſervation.
4. Memory.
5. Imagination.
6. Abſtraction.
7. Reaſoning.
8. Foreſight.
9. Propenſity.
10. Sentiment.
11. Deſire.
12. Volition.

Theſe articles may be ranged under the denominations of powers, diſpoſitions, and habits.

The firſt eight articles are commonly referred to the underſtanding; the remainder to the will.

Habit is incident to all living natures, and has ſomething analogous even in the inanimate ſyſtem of things.

SECT. II.

Of Conſciouſneſs.

THE mind is conſcious of itſelf, as acting or ſuffering, in all its operations and feelings.

It is conſcious of the laws of thought or reaſon, which are termed the *metaphyſical* or *geometrical axioms.*

Theſe axioms are the conditions on which all thought proceeds, and which need not be expreſſed, but for the ſake of order or method.

SECT. III.

Animal Senſe and Perception [13].

SENSATION is obtained by means of corporeal organs; and is, for the moſt part, attended by an original or acquired perception of ſome external cauſe of the ſenſation, or object of the perception.

The organs of ſenſe are commonly reduced to five heads:

Touch, Taſte, Smell, Hearing, and Seeing.

TOUCH.

The whole animal frame is in ſome degree an organ of touch.

The ſenſations of touch, or feeling, are either pleaſant, painful, or indifferent.

The interior or ſubcutaneous parts are ſenſible only to the pains which ariſe from hurts or diſorders.

The final cauſe appears to be, that, in their ordinary and ſound ſtate, they ſhould require no attention; but, in caſe of diſorders, that they ſhould give the alarm.

[13] See Reid's Inquiry into the human mind.

On the exterior ſurface of the body, harmleſs ſenſations are indifferent; but whatever hurts is painful.

Indifferent ſenſations are the indications of the mere contact of innocent bodies.

Painful ſenſations are indications of hurts or wounds.

Pleaſant ſenſations are the ſign of relief from what hurts or wounds; as of moderate warmth ſucceeding to great cold, or the converſe.

Many indifferent ſenſations in particular parts of the body, as in the hands, the tongue, &c. are indications of the intimate properties, and nice diſtinctions of bodies; as of their figure, poliſh, hardneſs, ſoftneſs, as well as comparative heat or cold.

The perceptions of this ſenſe are, in ſome inſtances, original; in others acquired.

The figure, hardneſs, ſoftneſs, heat, and cold of bodies, are matter of original perception.

Many of their ſalutary or pernicious qualities are learned by experience, and are matter of acquired perception.

In ſome caſes we perceive the nature, as well as the exiſtence of qualities; as of figure, hardneſs, ſoftneſs.

In others, we perceive the exiſtence of the quality, but not its nature; as of heat and cold.

The firſt have been termed *primary*, the other *ſecondary qualities of bodies.*

The ſenſations by means of which we perceive primary qualities, are, for the moſt part, indifferent, and have no name.

The ſenſations by which we perceive ſecondary qualities are, for the moſt part, either pleaſant or painful; are conſidered apart from the perception they bring; and frequently uſurp the name of the quality perceived, ſo as to occaſion a conſiderable ambiguity in language. Thus heat or cold, which are the names of certain unknown properties in bodies, are ſometimes underſtood of animal ſenſation or feeling.

The animal ſenſation can, in no caſe, have any reſemblance to the ſubject or quality perceived.

Its informations, therefore, are not like that we receive from the inſpection of a picture or image; but like that we receive by means of language, or other arbitrary ſigns.

In original perception, the ſign is affixed by nature, and the interpretation inſtinctive.

Our ſenſations are not fitted to furniſh us with the means of inveſtigation, and of proof, but with perceptions which precede all inveſtigation or proof.

The ſceptic, who affects to diſbelieve the informations of ſenſe, has the ſame perception with the dogmatiſt, who profeſſes to believe.

TASTE.

The organ of taſte is placed in the tongue and palate.

Its ſenſations are, for the moſt part, either agreeable or diſagreeable.

The qualities of bodies perceived by it are ſecondary, as already explained [14].

The ſenſations of taſte become, after ſome experience, the indications or ſigns of what is pernicious or ſalutary in food, &c.

But the ſame ſubject is frequently known by ſenſations, which differ greatly in reſpect to pleaſure or pain.

The ſenſation is ſometimes pleaſant, at other times painful or indifferent, while the ſame object is ſtill perceived.

Thus, under the influence of appetite, the taſte of food is pleaſant; when the appetite is cloyed, the taſte is diſguſting or painful; but the ſame ſpecies of food is ſtill perceived.

The taſte is likewiſe oft-times indifferent, or is not, in any conſiderable degree, either

[14] See p. 39.

pleaſant or painful; yet in all thoſe caſes the object is perceived, and its qualities nicely diſtinguiſhed.

SMELL.

The organ of ſmell is placed within the noſtrils, near to the paſſage of the air in reſpiration.

There is a greater analogy between the ſenſations of ſmell and taſte, than between thoſe of any other two of our ſenſes.

They agree in giving a perception of ſecondary qualities; in enabling us, by the help of experience, to diſtinguiſh external ſubjects, and to recogniſe the ſame ſubject by the *media* of ſenſations that vary from pleaſant to painful or indifferent.

HEARING.

The organ of hearing is placed in the interior part of the ear.

The ſenſations of ſound, whether ſingle or multiplied, and variouſly combined, are either pleaſant, painful or indifferent.

The quality perceived is ſecondary, found, by inveſtigation, to be pulſes of the air,

occaſioned by exploſions, or by the tremors of tenſe and elaſtic matter of any ſort.

Sounds are diverſified by their intenſity and muſical tone.

Tones being a natural expreſſion of ſentiment, are, by certain combinations, eaſily rendered pathetic.

Different ſounds are, by experience, learned to be the ſigns or indications of different ſubjects, and of different movements.

SIGHT.

The organ of ſight is placed in the eye.

Its ſenſations are ſometimes pleaſant or painful, but, for the moſt part, indifferent.

Of the qualities perceived by means of theſe ſenſations, ſome are primary, others ſecondary.

The original perception obtained by ſight, is that of the viſible appearance of things external. This appearance includes ſuperficial extenſion and figure, apparent magnitude, color, illumination, and ſhade.

The acquired perception is that of the real dimenſions, figures, and diſtances of bodies.

In the uſe of this organ, there is a ſeries of ſigns and interpretations.

1. The visible appearance is perceived by means of light.

2. Objects are perceived by the intervention of this appearance.

The same object is perceived under great varieties in the visible appearance.

The solid dimensions of bodies are understood from the disposition of light and shade on the visible surface.

The distances of known bodies are inferred from their apparent magnitude and distinctness.

The real magnitudes of bodies at a known distance, are inferred from their apparent magnitudes.

This discernment of objects from their visible appearance, is the result of observation. Where we have no measure of the distance of bodies, we cannot, from their apparent magnitude, ascertain their real magnitude; or, where we have no measure of the real magnitudes of bodies, we cannot, from their apparent magnitudes, ascertain their distance.

The perceptions of sense are communicated to others by information or testimony.

SECT. IV.

Obſervation.

OBSERVATION is the attention ſpecially paid to things remarkable.

Things become remarkable by their reference to ourſelves, or by their compariſon, ſimilitude, or contraſt with each other.

Collections of obſervations, or of facts, conſtitute hiſtory, either deſcriptive or narrative.

Deſcriptive hiſtory is the detail of co-exiſtent circumſtances and qualities.

Narrative hiſtory is the detail of ſucceſſive events.

SECT. V.

Memory.

MEMORY is the recollection of ſubjects paſt.

It is caſual or intentional.

It is caſual, when ſubjects or thoughts, by any connexion of their own, recur to the mind.

It is intentional, when the mind, from deſign, recalls any ſubject or thought.

SECT. VI.

Imagination.

IMAGINATION is the ſtating of objects as inveſted with all their qualities and circumſtances, real or fictitious.

Imagination is exerted in matters which we know or believe to be real, as well as in matters which we invent or believe to be fictitious.

It includes, therefore, all the conceptions in which we endeavour to ſpecify or particularize our ſubject; and in this is diſtinguiſhed from abſtraction, in which we endeavour to generalize.

The hiſtory of our conceptions is, perhaps, the moſt important article in the hiſtory of the human mind.

We acquire a habit of conceiving together qualities or circumſtances which are preſented together.

Qualities uniformly or generally preſented together in nature, form our conception of natural ſubjects, and are the realities on which we proceed in our conduct.

Occaſional coincidences are ſometimes conceived as natural and eſtabliſhed combinations.

Combinations of fancy, report, or vulgar repreſentation, occupy our conception in the ſame manner.

Objects imagined may be deſcribed, may excite ſentiment and paſſion, and lead our deſires and averſions.

Hence imagination is the chief faculty employed in deſcription, invention, and perſuaſion, and in ſtating the objects of our choice and purſuit.

Different nations, ages, and men, act under the influence of different imaginations or conceptions.

Such imaginations, when fortified by habit, do not give way to reaſon or conviction, and muſt be ſupplanted by other habits.

Objects are imagined ſeparately or jointly.

In the ſeparate images of things, are conſidered their real or poſſible qualities and circumſtances.

In their joint images are conſidered their ſimilitude, analogy, or oppoſition.

Similitude conſiſts in the likeneſs of parts.

Analogy conſiſts in the ſimilarity of relation, and proportion of parts.

Oppoſition conſiſts in the contrariety of qualities, and proportions or relations.

Similitude leads to arrangement, and the claſſing of objects together.

Analogy leads to the rhetorical figures of ſimile, metaphor, and allegory.

Oppoſition leads to diſtinctions, antitheſes, and contraſt.

SECT. VII.

Of Abſtraction.

ABSTRACTION is the ſtating of qualities and circumſtances apart from ſubjects, qualities, or circumſtances, to which they are actually joined in nature.

Thus, in arithmetic and geometry, number and quantity are ſtated apart from things to be numbered or meaſured.

In abſtract terms, qualities are ſtated apart from their ſubjects.

In mechanics, motion is ſtated apart from reſiſtance or friction.

In generic names, qualities in which individuals agree are ſtated apart from thoſe in which they differ.

Abſtraction is, in a great meaſure, arbitrary; hence the various methods of claſſification followed in natural hiſtory.

Abſtraction is the reverſe of imagination: It is the foundation of general and comprehenſive reaſoning, not of deſcription or paſſion.

Men are ſometimes the dupes of their own abſtractions, and conſider them as ſeparate and independent exiſtences.

Abſtraction tends to diſqualify men for affairs. It is the habit of conſidering circumſtances apart; while, in affairs, all circumſtances come together, and muſt be kept in view at once.

SECT. VIII.

Of Reaſoning.

REASONING comprehends claſſification of particular ſubjects, inveſtigation, and application of general rules, together with demonſtration, the application of evidence.

In claſſification, we refer particulars to certain predicaments, fixed or arbitrary.

In inveſtigation, we obſerve what is common in the operations of nature, or inquire what would be right in the actions of men.

In the application of rules, we ſhow the particulars which are comprehended under them.

In

In this ſcience conſiſts.

In demonſtration, or the uſe of evidence, we employ teſtimony or argument.

Argument is taken either *a priore*, or *a poſteriore*.

Argument *a priore*, proves or diſproves the fact from the law, or the effect from the cauſe.

Every argument of this ſort may be reduced to a perfect ſyllogiſm, conſiſting of three propoſitions: Of which one announces the law, either negative or poſitive; another compares the law with the fact to be proved; and the third affirms or denies the fact, from its conformity with, or oppoſition to the law.

Argument *a poſteriore*, proves or diſproves the rule, from the enumeration of particulars.

Every ſuch argument may be reduced to a ſyllogiſm, conſiſting of two propoſitions: One is induction, or enumeration of facts; the other affirms or denies the law, from the concurrence, or want of concurrence in the particulars brought to eſtabliſh it.

SECT. IX.

Of Foreſight.

FORESIGHT is the faculty of conjecturing what is to follow from the paſt or preſent.

It requires penetration and ſagacity: The firſt, to comprehend all the circumſtances of the caſe in queſtion; the ſecond, to perceive what is likely to follow from thoſe circumſtances.

Penetration and ſagacity are the foundations of good conduct, art, and ſkill.

SECT. X.

Of Propenſity.

MEN, like the other animals, are active, from original choice and propenſity.

They delight in freedom and exerciſe; they pine under reſtraint, or in the abſence of objects fit to excite them.

The activity of man's nature conſiſts in propenſity, ſentiment, deſire, and volition.

Propenſities have their effect prior to the experience of pleaſure or pain.

They are either animal or rational.

The animal propenſities are, the appetites to food, ſleep, and the propagation of the ſpecies.

Theſe appetites are periodical or occaſional, and are intermitted when their ends are obtained.

The rational propenſities lead to ſelf-preſervation, to the care of our children, to the union of the ſexes, to ſociety, and to prefer what is excellent.

Theſe, like animal appetites, give a direction to human nature prior to any experience of their gratifications.

But, contrary to the analogy of animal appetites and gratifications, they may continue to occupy habitually, without ſatiety or diſguſt.

All affections of kindneſs are, in their own nature, pleaſant.

All emotions of hatred are painful.

Having theſe natural propenſities, we ſtate objects under the predicaments of good or of evil, as they are ſuppoſed conducive or oppoſite to the purpoſes of our propenſities.

Whatever is thought conducive to preſervation, is reckoned good.

Whatever is thought pernicious, is reckoned evil.

Whatever promotes the welfare of ſociety, or of any object beloved, is therefore ſuppoſed good.

What is pernicious, is ſuppoſed evil.

Whatever is thought, in itſelf, to conſtitute a perfection or excellence, is ſuppoſed good.

Whatever is thought to conſtitute imperfection, or to ſink our comparative value, is ſuppoſed evil.

Hence the great influence of opinion on the external purſuits of men.

SECT. XI.

Of Sentiment [15].

SENTIMENT is a ſtate of mind relative to ſuppoſed good or evil.

Sentiments are pleaſant or painful.

The ſentiment ariſing from a ſuppoſed good attained, is pleaſant; from a ſuppoſed good miſſed or forfeited, is painful.

[15] See Theory of agreeable ſentiments.

A ſuppoſed evil avoided, is pleaſant; incurred, is painful.

The pleaſure, in both theſe caſes, is termed *Joy*.

The pain is termed *Sorrow*, or *Grief*.

A ſuppoſed good, in expectation of being gained, is pleaſant; in expectation of being loſt, is painful.

The pleaſure, in either of theſe two caſes, is termed *Hope*.

The pain is termed *Fear*.

Thus all our ſentiments or paſſions may be referred to four general heads:

Joy, Grief, Hope, and Fear.

But there is a great variety in the ſentiments of joy and grief, of hope and fear, correſponding to the nature of the ſuppoſed good or evil, and of the propenſity by which we are directed towards it.

The ſentiments of thoſe who are occupied chiefly in their own preſervation, are, the ſenſe of ſafety and ſucceſs, or of danger and diſappointment.

The firſt may comprehend ſecurity, exultation, and inſolence; the ſecond, jealouſy, terror, and deſpair.

The moſt painful ſentiments of thoſe who are occupied chiefly by their regard to mankind, are alleviated by the pleaſures of affection, confidence, and good-will.

The ſentiments of thoſe who are occupied chiefly with the conſideration of excellencies or defects in themſelves, or in others, are, on the one hand, reſpecting themſelves, and their own abſolute perfections or defects, ſelf-approbation, and elevation of mind; on the other hand, ſhame, remorſe, and dejection.

In reſpect to comparative advantages, and ſuperiority to other men, their ſentiments are, exultation, vainglory, inſolence, and contempt.

The ſentiments of men reſpecting real excellencies in others are, eſteem, reſpect, and veneration.

Eſteem is a ſentiment of approbation tending to confidence.

Reſpect is a ſentiment of approbation tending to ſubmiſſion.

Veneration is a high degree of reſpect.

The ſentiments of men reſpecting defects are, contempt, ridicule, indignation, and rage.

Contempt is a ſentiment of diſapprobation, tending to indifference or neglect.

Ridicule is a ſentiment of diſapprobation, mixed with mirth or pleaſantry.

Satire and Raillery conſiſt in expoſing what is ridiculous.

Buffoonery conſiſts in aſſuming it.

As the ſentiment of diſapprobation predominates, ridicule approaches to ſcorn.

As the ſentiment of pleaſantry predominates, it approaches to mirth, and may even be mixed with tenderneſs.

The ſcornful are rarely ſuſceptible of admiration or love.

Indignation is a ſentiment of diſapprobation, mixed with reſentment.

Rage is a ſentiment of diſapprobation, mixed with hatred.

The ſentiments of men reſpecting comparative advantages in others, differ according as they are diſpoſed to love or hate, and according as they ſtate the compariſon, whether with themſelves or with other men.

The ſuperiority of thoſe they love, compared to themſelves, produces deference and reſpect.

The ſuperiority of thoſe they hate, ſo compared, excites envy; of thoſe who are

indifferent, excites humiliation, or is a mortification.

The ſuperiority to thoſe they love, compared to others, excites exultation; of thoſe they hate, compared to others, excites animoſity and regret.

Languages may be conceived to vie with one another in the power of expreſſing theſe varieties of emotion and ſentiment.

SECT. XII.

Deſire and Averſion.

DESIRE and averſion ariſe from our conception of objects, founded in experience, fancy, or report.

Men's deſires and averſions are various, as their opinions or conceptions of things.

In proportion as the conception becomes habitual, the deſire or averſion becomes ſo alſo.

Certain conceptions of pleaſure, profit, preferment, and worth, produce ſenſuality, avarice, emulation, and greatneſs of mind.

Theſe deſires, though, in ſome inſtances, they carry us far beyond the ſcope of our

original propenſities, have a foundation in ſome natural propenſity, and lead to the objects which, in our opinion, tend to fulfil its purpoſe.

Senſuality is founded in animal appetites, and implies a purpoſe of enjoyment, even during the intermiſſions of appetite.

Avarice is founded in the care of ſelf-preſervation; but limits it to the deſire of riches, or the means of ſubſiſtence.

Emulation is founded in ambition, and is the deſire of ſuperiority, ſuppoſed to conſiſt in preferments and honors.

Greatneſs of mind is founded in ambition, limited to perſonal qualities and real perfections.

What we habitually deſire, we alſo ſtate as our intereſt, in judging of our concern in any matter of choice.

Sect. XIII.

Of Volition.

Volition is the act of will in free determinations.

The determination is free wherever it is voluntary.

The motives from which we chuſe, do not deſtroy our freedom; for, to act from motives in the manner we ourſelves approve of, to be willing, voluntary, and free, in any action, are ſynonymous terms.

We are reſponſible for the part we chuſe to act.

INSTITUTES

OF

MORAL PHILOSOPHY.

PART. II.

THEORY OF MIND.

CHAP. I.

General obſervations.

THEORIES of mind, no leſs than theories of matter, proceed upon the knowledge of phyſical laws, applicable to explain appearances.

It is admitted, that the intellectual ſyſtem, as well as the material, hath its laws; but it is apprehended that the laws of the intellectual ſyſtem are not equally well obſerved [1].

[1] Spirit of laws, book 1.

This apprehenſion comes from our not conſidering the diſtinction of laws, as well as of ſubjects.

The term *law* is ambiguous.

It ſometimes ſignifies the uniformity of a fact in nature.

In this ſenſe it is employed in theories of the material ſyſtem [2].

And in this ſenſe chiefly the material ſyſtem is ſaid to have its laws.

In this ſenſe every law muſt be ſtrictly obſerved; becauſe it is law only ſo far as it is obſerved. Gravitation is a law only ſo far as bodies actually gravitate.

But in this ſenſe, too, the intellectual ſyſtem hath its laws; for, in the operations of mind, ſome facts are uniform.

In this ſenſe, therefore, the laws of the intellectual ſyſtem are equally well obſerved with thoſe of the material.

The term *law*, however, has a farther ſignification, and means a rule of choice, which we deſire to have uniformly obſerved.

In this ſenſe it is employed by moraliſts, civilians, and thoſe who inſtruct the taſte in any matter of elegance or beauty.

[2] See Laws of Nature, in the Introduction to every ſyſtem of mechanics.

In this ſenſe moſt commonly it is meant, that the intellectual ſyſtem hath its laws.

And in this ſenſe the law may ſubſiſt, without being ſtrictly obſerved: For it is law in conſequence of its rectitude, or of the authority from which it proceeds; not in conſequence of its being the fact.

But, although the more important laws of this ſort relate to the intellectual ſyſtem, yet there are laws of the ſame kind relating to the material ſyſtem.

Such are the expreſſions of what is required to elegance, beauty, or utility, in natural ſubjects, or of what is required to perfection in works of art.

In ſuch reſpects, material, as well as intellectual ſubjects, may deviate from the law.

In the vegetable and animal kingdoms, there are deformities, diſtortions, and diſeaſes; as there are in the intellectual kingdom follies, abſurdities, and crimes.

To avoid, as much as poſſible, theſe ambiguities, laws of the firſt ſort, whether relating to mind or matter, have been termed *phyſical laws;* and laws of the ſecond ſort, *moral laws* [3].

[3] See Introduction.

Common uſe will authorize this interpretation; although the uſe of theſe terms is far from being preciſe or determinate: For frequently, whatever relates to matter, is ſaid to be phyſical; whatever relates to mind, is ſaid to be moral.

In conſequence of this vague uſe of the term *moral*, any theoretical queſtion relating to mind has been ſubſtituted for moral philoſophy; and ſpeculations of little moment have ſupplanted the ſtudy of what men ought to be, and of what they ought to wiſh, for themſelves, for their country, and for mankind.

CHAP. II.

Examples of Phyſical Law, collected from the hiſtory of mind.

SECT. I.

Laws of the Underſtanding.

THE hiſtory of the underſtanding may furniſh three principal rules, or phyſical laws.

The firſt relates to the conſcioufneſs of ourſelves.

The ſecond to the perception of other things.

The third to the comprehenſion of ſubjects of which we are conſcious, or which we perceive.

FIRST LAW.

We are conſcious of our exiſtence, operation, and will.

This is the higheſt meaſure of evidence, to which no ſcepticiſm ever extended.

SECOND LAW.

Perception is obtained by the intervention of *media*, whether like or unlike to the ſubject perceived.

1. The medium of ſenſation.

2. The medium of ſigns.

The ſenſation by means of which we naturally porceive the exiſtence of external ſubjects, has no reſemblance to thoſe ſubjects.

The ſigns by which we naturally perceive the exiſtence and meaning of other minds, have no reſemblance to the things ſignified.

From this law may be explained the effects of rites in religion; of manners, as well as language, in common life; of title, fortune, and faſhion, as grounds of eſteem.

Rites are adopted as the ſigns of devotion towards God.

Manners as the ſigns of our diſpoſitions towards our fellow-creatures.

Language as the expreſſion of ſentiment and will.

Title and fortune are indications or conſtituents of ſuperior condition.

Faſhion is the form in which ſuperior condition is known.

Many ſigns having no natural connexion with the things they indicate, vary in different countries, and change in the ſame country, without any change of ſentiment reſpecting the things themſelves.

Third Law.

To comprehend any particular ſubject, is to know ſome general predicament or claſs to which it may be referred.

Thus to comprehend the nature of any particular being or quality, is to be able to refer it to ſome known ſpecies or claſs.

To comprehend any operation or phenomenon, is to be able to refer it to ſome eſtabliſhed or known law of nature.

Thus we comprehend all the phenomena that can be referred to the laws of gravitation, coheſion, electricity, and ſo forth.

From this law may be explained the proceeding of the mind in ſcience, in claſſification, inveſtigation, and experiment, as well as in its recourſe to hypotheſis and imaginary ſyſtem of any ſort.

To make a new diſcovery, is either to inveſtigate ſome law, or to point out ſome new application.

Thus Sir Iſaac Newton inveſtigated the law of refraction, and applied it to the rainbow, and to the colors of natural bodies.

Dr. Franklin applied the laws of electricity to lightning, and to the aurora borealis.

The laws of nature are the genera and ſpecies under which particular facts are ranged, or the predicaments to which they are referred.

Some predicaments have their generic names in every language, have been univerſally admitted, and are coeval with human thought.

Such are, ſubſtance, quality, quantity, number, perfection, defect, good, evil, time, place, &c.

Others are more arbitrary, and choſen to render human knowledge methodical and comprehenſive.

Such are the claſſes and orders into which ſubjects are diſtributed in the method of different natural hiſtorians.

SECT. II.

Laws of the Will.

THE hiſtory of the human will may furniſh the three following general rules.

FIRST LAW.

Men are diſpoſed to preſerve themſelves.

Hence danger alarms, and ſafety is ſtudied: The hurtful is ſhunned; the uſeful is valued.

Under this laſt title men deſire the means of ſubſiſtence, health, ſtrength, beauty, parts, temper, reſolution, &c.

This is commonly termed *the law of ſelf-preſervation*: but ſo great is the variety of men's opinions, and ſuch the caprice of their paſſions, that the melancholy and froward ſeem to be at variance with themſelves, and appear to deſire what is deſtructive.

SECOND LAW.

Men are diſpoſed to ſociety.

They not only aſſociate together, but take part with their fellow-creatures, and conſider general calamities as matter of regret, general welfare as matter of joy.

This may be termed *the law of ſociety*; and is that which qualifies the individual to be the member of a community, inclines him to contribute to the general good, and entitles him to partake in it.

The reality of this law has been diſputed:

1. Becauſe all the actions of men are not beneficial to ſociety.

2. Becauſe even beneficial actions may be accounted for from other motives.

The actions of men are regulated, not by this law only, but by this combined with every other law of their nature.

If the law of ſelf-preſervation, for the moſt part, prevail, it does not follow, that the law of ſociety has no effect.

The external effect, or tendency, of every law, is diverſified in different circumſtances.

The general tendency of the law of gravitation is, to cauſe bodies to approach to each other; as the tendency of the law of ſociety is, to bring men together, to engage them in good offices, or to reſtrain them from ill ones.

Heavy bodies are not always falling, nor ſocial natures promoting the good of ſociety.

Every phyſical law, nevertheleſs, operates to one uniform effect, though with a different appearance.

Thus gravitation operates in preſſure towards the earth, whether bodies be at reſt, or in motion, in any direction. When bodies are ſupported, it weighs on the prop that ſupports them. In deſcending, it accelerates; in aſcending, it retards; in projection, it turns motion into a curve.

In the ſame manner, what is here termed *the law of ſociety*, though varied in its appearance, is equally real in its effects. In minds

without prejudice, it is indiſcriminate humanity. In friendſhip it is beneficence: In ſtriſe it is ſome degree of reſtraint: In good offices it is ſelf-approbation: In ill offices it is remorſe: Confirms the reſolution in one caſe, and weakens it in the other; ſo that even the malicious are conſcious of its power.

As to the motive from which actions beneficial to mankind proceed, theſe may be various in various inſtances, but no perſon can know, except in his own caſe, that there are no ſincere affections of benevolence and good-will.

THIRD LAW.

Men are diſpoſed to better themſelves.

They diſtinguiſh perfections from defects: they admire and contemn.

This is the great principle of ambition in human nature, and may be termed the *law of eſtimation*, or *of progreſſion*: it is an ultimate fact in the nature of man, and not to be explained by any thing that is previouſly or better known.

Excellency, whether abſolute or comparative, is the ſupreme object of human deſire.

Riches, power, and even pleaſure, are coveted with extreme ardor, only when they are conſidered as the badges of eminence or rank, and become ſubjects of diſtinction and emulation.

CHAP. III.

The foregoing laws applied in explaining the phenomena of Intereſt, Emulation, Pride, Vanity, Probity, and Moral Approbation.

SECT. I.

Of Intereſt.

INTERESTEDNESS appears in ſolicitude about our ſituation and future proſpects: when in extreme it ſtifles affection, and leads to the commiſſion of frauds and of crimes.

This paſſion is comprehended in the law of ſelf-preſervation, and is a partial application of that law, founded in an opinion of the great conſequence of external advantages.

Opinions, and their conſequences, are more or leſs prevalent, in proportion to the prevalence of circumſtances by which men are led to entertain ſuch opinions.

For this reaſon intereſtedneſs is very prevalent.

The opinion on which it is founded, ariſes from the following circumſtances.

1. The inſtinctive care of ſelf-preſervation.

2. The early prepoſſeſſion in favor of ſenſual objects, becauſe they firſt engroſs our attention.

3. The continued care of eſtate or fortune that is neceſſary wherever property is eſtabliſhed.

4. The rank which riches are ſuppoſed to beſtow.

From this laſt conſideration, the law of eſtimation comes to be combined with the law of ſelf-preſervation, in accounting for the intereſted paſſions of men.

The intereſted conſiſt of two claſſes; the prodigal, and the avaricious.

The prodigal are commonly moſt rapacious, being urged by the deſire of enjoyment.

The avaricious are more cautious, being reſtrained by the fear of want.

Intereſt and ſelfiſhneſs are ſometimes employed as ſynonymous terms: but the ſenſual, the proud, the vain glorious, are not leſs ſelfiſh, that is to ſay, leſs void of benevolence, than the intereſted.

And the fault of the intereſted, conſiſts not in the meaſure of care beſtowed on themſelves, but in the miſtake of their own principal concerns.

SECT. II.

Theory of Emulation.

EMULATION appears in competitions, heart-burning, and ſtrife.

It ariſes moſtly in the purſuit of things of mere comparative value.

Such are, riches, renown, power, or rank.

The value of riches is comparative; for it conſiſts, not in any abſolute meaſure of wealth, but in poſſeſſing more than other men.

Renown conſiſts in being more talked of than others.

Power conſiſts in being able to command other men; and rank, in being of ſuperior ſtation.

They who deſire what cannot be affected by compariſon, ſuch as real happineſs, and real virtue, apart from the reputation of either, are not addicted to emulation, enjoy their own meaſure of good, and rejoice in what is poſſeſſed by others.

Emulation may be directed to uſeful actions, and have effects ſerviceable to mankind; but is itſelf an unhappy diſpoſition, a ſource of envy, jealouſy, and malice.

The emulous are not ſatisfied with any attainment, while others poſſeſs an equal, or a ſuperior meaſure of the ſame advantage.

The character of the emulous is not elevation of mind, but a paſſion to be the firſt in reſpect to thoſe articles which the vulgar admire; as Cæſar deſired to be the firſt in a village, rather than the ſecond at Rome.

The emulous are enemies to each other, and to men of ſuperior reputation. They are, for the moſt part, vigilant, courageous, and vehement; indulgent to thoſe who are confeſſedly inferior, but malicious to thoſe who, in point of conſideration, are equal or ſuperior to themſelves.

They commonly prefer mean company, in which they can aſſume a ſuperiority, to better, in which they muſt ſubmit to equality.

Emulation is one effect of ambition, is comprehended in the law of eſtimation, and ariſes from an opinion, that excellence conſiſts in ſuperiority to other men.

SECT. III.

Of Pride.

PRIDE appears in neglect, inattention, contempt, and arrogance.

It is founded, therefore, in a mean opinion of other men.

It is comprehended in the law of eſtimation; for it is in conſequence of this law that men either admire or contemn.

Pride, or contemptuouſneſs, is inconſiſtent with affection, candor, or any regard to the rights of mankind.

The deſire of perfection, and even the love of virtue, have been confounded with pride.

This abuſe ſometimes proceeds from inattention to propriety of language:

Sometimes from affectation of figurative ſpeech; as when we ſay, *decent pride*, *noble pride*, *the pride of doing well*, &c. Here it implies contempt; but, in a good ſenſe, the contempt of what is unworthy.

At other times this confuſion of words is affected, in order to favor a ſyſtem; as when we would depreciate virtue, or diſprove its reality, by ſpeaking of it in terms which are commonly taken in a bad ſenſe [4].

Pride reſults from the law of eſtimation, as an abuſe of it, or an improper contempt of other men.

[4] Mandeville's works.

It is ridiculous to attempt confounding the love of virtue with pride: Their tendencies are oppoſite.

Virtue is a reſpect for the rights of men, and eſteem of what tends to the good of mankind.

Pride is a diſreſpect for the rights of men, and contempt of mankind.

Sect. IV.

Of Vanity.

Vanity appears in affectation and oſtentation.

The vain affect what they think will captivate the attention and obtain the praiſe of others.

They are oſtentatious of what they ſuppoſe conſtitutes their importance, as of their perſons, fortune, equipage, talents, and adventures.

They are gratified by admiration, without any other evidence of merit.

Vanity is comprehended in the law of eſtimation; for it ſuppoſes the diſtinction of admirable and contemptible, however miſunderſtood.

It is the reverſe of pride, over-rating the value of other people's opinions, which pride contemns.

The vain are capable of great efforts of courage and reſolution when ſupported by public opinion, and when acting in public view; but, without this ſupport, are feeble and irreſolute.

The attention they pay to other men not proceeding from the heart, but from the deſire of conſequence and applauſe, they always fail where the fruits or effects of real affection are expected.

SECT. V.

Of Probity.

PROBITY appears in acts of juſtice and beneficence.

Men who regard the rights, and feel for the ſufferings of others; who are ever ready to do acts of kindneſs; who are faithful and true to the expectations they raiſe, — are ſaid to have probity.

Probity implies the love of mankind, founded in a temper that is compaſſionate, candid, and liberal.

It is comprehended, therefore, in the law of ſociety.

Probity may be underſtood to conſtitute an excellency, but cannot be the foundation of pride or contemptuouſneſs.

It may be underſtood to merit applauſe, but is directed by affection, not by the deſire of admiration or attention.

Men of probity prefer integrity to any other kind of ſuppoſed excellency; but frequently have a modeſt opinion of their own merits.

They are perpetually aiming at the worth they know and admire, not referring to it as a ſtandard by which to cenſure others.

SECT. VI.

Of Moral Approbation in general.

MORAL approbation is the judgment formed of characters and actions, as being excellent or juſt.

It is oppoſed to diſapprobation or blame.

The apprehenſion of excellence or defect, in ſome inſtances, as of beauty or deformity, in merely animal or material natures, is accompanied with ſimple emotions of admiration or contempt: But, to every perſon, the apprehenſion of excellence in himſelf is attended with elevation of mind. The apprehenſion of defect is attended with ſhame or remorſe. The ſame apprehenſions reſpecting other men are attended with complacency, veneration, love, pity, indignation, and ſcorn.

Men fond of paradox have queſtioned the reality of moral diſtinctions: But expreſſions of praiſe and blame, in every language, the importance of men's actions to mankind, the oppoſite nature of diſpoſitions that form the characters of men, the moſt vehement ſentiments of the human heart, which refer to this ſubject, — ſhow, that the diſtinction of moral good and evil is real, and univerſally acknowledged.

In treating of moral approbation, four queſtions may be ſeparately ſtated.

1. What do men, for the moſt part, approve or blame?

2. By what principle, or conſideration, are they directed, in particular caſes, to beſtow their approbation or cenſure?

3. What is the proper ſubject of approbation or cenſure?

4. What is the rule or principle by which men ought to judge of moral characters?

The two firſt queſtions are phyſical, and belong to this place; the two laſt are moral, and their anſwer will be comprehended in the firſt, or moſt general laws of morality.

The ſubject of morality has been greatly perplexed by the blending of theſe queſtions together.

The actual errors and corruptions of men, have been muſtered up as ſo many proofs that there is nothing which men ought to eſteem or deſire.

In phyſical queſtions, we attend to the fact; in moral queſtions, to what is good or evil. The fact, however well eſtabliſhed, and however univerſal, does not preclude us from conceiving and chuſing what is better.

If all men were actuated, by intereſt, emulation, pride, or vanity, it would not follow that probity is no object of eſteem or deſire. When we are told, therefore, that candor and benevolence are hypocriſiy; that courage is anger; elevation of mind is pride; and temperance formality or affectation, — we may aſk; whether theſe allegations are meant as a ſtate of the fact, in the pretenſions of ſome men, or as examples of what men ought to be? The facts may be true; but to chuſe a pattern confeſſedly bad, would be abſurd.

SECT. VII.

Of the Object of Moral Approbation.

THE object of moral approbation is either ſome diſpoſition of the mind, or ſome external action.

Probity is the moſt approved diſpoſition; and the external expreſſions of probity the moſt approved actions.

Theſe conſtitute the whole, or the moſt eſſential part of virtue.

Other ſubjects may be admired or contemned, but theſe alone are the ſubjects of moral approbation, of eſteem, and love.

SECT. VIII.

Of the Principle of Moral Approbation.

MORAL approbation is comprehended in the law of eſtimation, and is indeed the principal fact from which we infer the reality of this law; as the vertical preſſure and fall of bodies are the principal facts from which, in mechanics, we infer the law of gravitation.

It is, therefore, itſelf an ultimate fact and principle of nature, not an appearance to be explained from any other principle better known.

It

It has been termed Reaſon, Conſcience, and Moral Senſe; but theſe are ſo many different names, not different explanations of the ſame thing.

As the excellence of human nature conſiſts in certain faculties and diſpoſitions, theſe, when poſſeſſed, invigorate the ſenſe of that excellence which they conſtitute. The intelligent are confirmed in the eſteem of wiſdom, and the benevolent in the eſteem of probity, by the concurrence of ſuch characters in other men with what they perceive in themſelves.

Every faculty and diſpoſition, in this manner, has a tendency to juſtify itſelf.

The vicious affections and deſires of men warp their judgments, and mar their ſentiments of juſtice.

The emulous and intereſted are unwilling to admire what is adverſe to their own deſigns.

External actions are variouſly admired or blamed, as they are variouſly underſtood to expreſs different characters and diſpoſitions of mind.

Thus men are led by cuſtom in their judgment of rites and external obſervances.

They are led by emulation or intereſt to affect the approbation of actions favorable to their own deſigns.

They are led, by their ſituations, to entertain a predilection for particular qualities.

Some prefer the military, others the pacific virtues.

But, ſo far as the virtue or moral excellence of a man conſiſts in ſuch qualities as fit him to procure the good of mankind, the benevolent muſt have a predilection for virtue, or be ſpecially prepared to admire that excellence. [5]

Approbation, at the ſame time, appears to be a ſpecific ſentiment in the operation of that law of our nature, which we have termed the Law of eſtimation.

Syſtems have differed chiefly by deriving our choice of actions and characters, ſome from the law of ſelf-preſervation, and others from the law of ſociety [6]; but the fact is, that, if benevolence is underſtood to be an attribute of human nature, the laws of ſelf-preſervation and of ſociety coincide in all their tendencies and applications.

Man is, by nature, a member of ſociety; his ſafety, and his enjoyment, require that he ſhould be perſerved what he is by nature;

[5] Vid. Lord Shaftesbury's Inquiry into Virtue.

[6] See Smith's Theory of Moral Sentiments.

his perfection conſiſts in the excellency or meaſure of his natural abilities and diſpoſitions; or, in other words, it conſiſts in his being an excellent part of the ſyſtem to which he belongs: So that the effect to mankind ſhould be the ſame, whether the individual means to preſerve himſelf, or to preſerve his community. With either intention he muſt cheriſh the love of mankind, as the moſt valuable part of his character. As this is the foundation of probity, it is that which leads men to give to probity, as ſuch, the preference to every other diſpoſition or habit of mind [7].

[7] Eſſay on the Hiſtory of Civil Society, part 1. ſect. 6.

CHAP. IV.

Of the Nature and Future Proſpects of the Human Soul.

SECT. I.

Of the Immateriality of the Soul [8].

THE nature of man has been univerſally conſidered as mixed, or compoſed of an animal and intellectual part, of body and mind.

This nature is capable of many functions, of which ſome being the exertions of corporeal organs, conſtitute the animal part; others, not being referred to any corporeal organ, are conceived as the attributes of mind or ſpirit.

Man, in reſpect to his animal nature, differs from the brutes only in the degree or manner of what he exhibits; but, in reſpect to his intellectual nature, differs totally, and in kind.

Being deſtined to act from obſervation and experience, not from ſpecial inſtinct, he is, when ignorant, apparently inferior in artifice

[8] See Baxter on the Immateriality of the Soul.

and power to the other animals; but, when knowing, greatly ſuperior.

That by which he excels other animals, is termed *his mind*, and has been univerſally diſtinguiſhed from *body*.

The properties of mind have no analogy to thoſe of matter: Properties of the one are even oppoſite and contradictory to properties of the other.

Matter is diviſible and inert; mind is indiviſible and active.

What are called *faculties of mind*, are its active powers, of which all may be exerted together, or in the leaſt meaſurable portion of time.

They are not diſtinct parts of a complicated nature, but abſtractions, which enable us to conſider ſeparately the ſimultaneous operations of mind.

The mind of man is, in a particular manner, united with his body, and preſent to whatever affects the ſenſes: But, in other inſtances, is equally preſent to the moſt remote, as to the neareſt object of thought.

SECT. II.

Of the Immortality of the Soul.

EVERY queſtion relating to a future ſtate muſt be ſolved from the nature of the ſoul, from the ſtate of the fact at death, or from principles of religion.

The nature of the ſoul being indiviſible, or not ſubject to a diſſolution of parts, and annihilation being unknown in the order of nature, it follows, that the ſoul is phyſically immortal.

The fact at death is, that the body ceaſes to be animated, or to give ſigns of the preſence of mind: But mind being of a different nature, may exiſt apart.

No argument can be drawn from principles of religion, until theſe principles be laid down or ſtated.

INSTITUTES

OF

MORAL PHILOSOPHY.

PART III.

OF THE KNOWLEDGE OF GOD.

CHAP. I.

OF THE BEING OF GOD [1].

SECT. I.

Of the Univerſality of this Belief.

MANY operations in nature have been univerſally looked upon as the exertions of mind or ſpirit, diſtinct from man.

[1] See Ray's Wiſdom of God in the creation. Sermons at Boyle's Lectures.

The moſt ignorant apprehend ſuch exertions in the little ſphere of their own concerns. The more knowing apprehend them in the general order of nature to which their obſervation extends.

The conceptions of rude minds on this ſubject are groveling, or require correction; but abſolute atheiſm is an effect of ſtudy, and an effort to withſtand original feelings. If ſucceſsful in any particular inſtance, it is no more than an exception to a general rule.

Our habit of occupying the imagination with corporeal ſubjects, brings on a diſpoſition to conceive every thing under corporeal images, and even of doubting the exiſtence of what is not corporeal: But, on recollection, we muſt be ſenſible that the firſt and ſureſt part of our knowledge is that of mind. And the exiſtence of deſign, perceivable in the order of nature, not leſs familiar than the exiſtence of what we ſee and hear.

The belief which is here aſſumed does not imply any adequate notion of the Supreme Being. Men, for the moſt part, have entertained notions on this ſubject, unworthy even of human reaſon.

But the belief that an artiſt, or author, exiſts, is conſiſtent with mean and improper notions of his capacity and intentions.

The belief that Homer compoſed the Iliad, is compatible with inadequate notions of that poet's genius.

The belief that books read at ſchool were compoſed by men, is conſiſtent with a notion, that even the claſſics were written for the uſe of children.

Sect. II.

Of the Foundation of this Belief.

The belief of Intelligent Power operating in nature being univerſal, cannot depend on circumſtances peculiar to any age or nation, but muſt be the reſult of human nature, or the ſuggeſtion of circumſtances that occur in every place and age.

In the nature of man, there is a perception of cauſes from the appearance of effects, and of deſign from the eſtabliſhment of order, or from the concurrence of means to an end.

Sceptics have not denied the reality of theſe perceptions; they have rather complained of them, as the foundation of general and vulgar errors.

But our knowledge and belief of every ſort originates in ſome ſuch natural perception, as in the perception of matter and its properties; in the information we take from others, and in what we underſtand as the meaning of ſigns.

In any of theſe caſes, we can aſſign no reaſon for our belief, but that we are by nature made in one caſe to perceive exiſtence; in another, to accept information; and in the third, to underſtand what is ſignified.

No argument is required to prove, nor can argument have any effect to refute, where nature has determined that we ſhall perceive, be informed, or underſtand.

No one can refrain perceiving that the eye was made to ſee, the ear to hear; that the wing was made for the air, the fin for the water, the foot for the ground; and ſo forth.

The perception of an end or intention in the works of men, implies the belief of an artiſt. The perception of an end or intention in the works of nature, implies the belief of God.

To acknowledge the perception of order, is to admit final causes.

In Nature, final causes may be considered as the language in which the existence of God is revealed to man.

In this language the sign is natural, and the interpretation instinctive.

Its accents are heard in every quarter, and its character is written on every material to which our knowledge extends.

CHAP. II.

Of the Attributes of God.

SECT. I.

Of theſe Attributes in general.

THE attributes of God are characters of the Supreme Being ſuggeſted by his works.

They may be referred to five principal titles; Unity, Power, Wiſdom, Goodneſs, and Juſtice.

SECT. II.

The Unity of God.

THE perception of final cauſes implies the belief only of one God.

To conceive a plurality of gods is a corruption.

Different nations ſeparately formed their notions of the Deity. On comparing theſe notions, they did not endeavour to reconcile them to the belief of one ſupreme being; they formed a liſt compoſed of many gods, having their different attributes and ſeparate departments in nature.

Sect. III.

Of Power.

Power is the attribute of the firſt cauſe; and, in the Creator of all things, cannot be circumſcribed.

Sect. IV.

Of Wiſdom.

Wisdom is the attribute of intelligence; and the belief of wiſdom in the author of nature, is implied in the perception of final cauſes.

The Wiſdom of God is perfect and infinite, or cannot be deficient in the diſcernment of any thing that exiſts, or of any thing that is poſſible in reſpect to matter, form, relation, excellence, or defect.

SECT. V.

The Goodneſs of God.

THIS is the attribute of the creator and preſerver of all things.

The proofs of goodneſs are,

1. The creating of ſenſitive and rational beings.

2. The meaſures of good which they are made to enjoy.

3. The order eſtabliſhed for their preſervation.

Without the firſt, there would be no object on which goodneſs could exert itſelf.

And the numbers of ſuch objects, as well as the deſtination ſuited to the nature of each, are proofs of goodneſs in the firſt cauſe.

2. What their numbers or deſtinations are, cannot be known to us; but the order and tendency of what we know, leads to the belief of univerſal good.

The lot of man is mixed, but his nature likewiſe is fitted to a mixed ſcene.

He complains of evil in his external circumſtances, or in his own nature and conduct.

The firſt ſubject of complaint is termed *phyſical evil;* the ſecond, *moral* evil.

Phyſical evil is the diſcordance of things to man's deſires.

Without ſuch diſcordance there would be no place for active exertions.

Complaints, therefore, of phyſical evil are not proofs of abſolute evil in the works of God, but the ſymptoms of an active nature in man properly placed, and having proper excitements to exert its power.

A ſcene in which there were no acceſſions of good to be gained, or, what is equivalent, no apparent evils to be removed, would be a ſcene of inaction, adverſe to the nature of man.

In other words, a being that perceived no evil, or had no want, could have no principle of activity.

Man by being employed as an active power in the order of nature, is not made to forego his own happineſs.

The enjoyments of men are obſerved to depend not on the meaſure of external accommodations, but on the part they act; not on their ſafety, but on the degree of courage they

poſſeſs; not on what they gain for themſelves or others, but on the degree of ardor and affection they exert.

Moral evil is the blemiſh of man's nature, ſhort of what is perfect or right; and what he himſelf feels on this ſubject is an evidence that he is not at once what he is deſtined to become.

Complaints of moral evil are the ſymptoms of a progreſſive or improving nature.

A being that perceived no moral evil, or no defect, could have no principle of improvement.

To remove the complaints of moral evil, it is neceſſary that men were either freed from all imperfections, or rendered inſenſible of the imperfections they have.

The firſt is impoſſible: Men muſt have the imperfections of created nature.

As to the leaſt poſſible meaſure of ſuch imperfections, we are far from being able to aſcertain it.

For a being to be inſenſible of the imperfections he has, would be an irretrievable blemiſh in his nature.

Man's pungent ſenſe of his own errors and defects, as it is the ſource of his complaints againſt the ſyſtem of things, ſo it is the ſource of

of his improvements, and is a beauty in his nature.

He is a voluntary agent, deſtined to act under the following wiſe reſtraint:

That his hurtful diſpoſitions are painful to himſelf, and his beneficial diſpoſitions are pleaſant.

The ſuffering, as well as the enjoyment, in this caſe, is a proof of beneficence in the power that inflicts it.

3. Every part, in the order of nature, is calculated for the preſervation of the whole.

Things the moſt remote, are made to concur to the ſame ſalutary purpoſes.

The order of the planetary ſyſtem is calculated for the preſervation of every being that occupies any part of this ſyſtem.

The pains, as well as the pleaſures, of living and ſenſitive creatures, tend to their preſervation.

The order of nature is preſerved by the ſucceſſion of lives; ſo that, whilſt the individual is periſhing, the ſpecies of every animal is ſafe, and the ſyſtem of nature is ſecured from decay.

SECT. VI.

Of the Juſtice of God.

JUSTICE is the reſult of wiſdom and goodneſs; and therefore moſt perfect in God.

Whence is the diſtinction of *juſt* and *unjuſt*, but from God the author of all things.

Juſtice is goodneſs impartial and univerſal; rendering every part ſubſervient to the whole, and calculating the whole for the preſervation of its parts; but precluding every part from any enjoyment in what is pernicious to the whole.

The pains and pleaſures incident to man's nature, are diſtributed agreeably to this rule of juſtice.

For the characteriſtic decree of God, apparent in the ſtructure of human nature, is, that benevolence is always pleaſant, malice is always painful.

CHAP. III.

Of a Future ſtate.

CONTRARY to the appearances at death, the human ſoul has been generally ſuppoſed to ſurvive its ſeparation from the body, and to be reſerved to a future ſtate of rewards and puniſhments.

This apprehenſion is agreeable to the moſt rational notions of the goodneſs and juſtice of God.

That goodneſs which diſpoſed the Almighty to create, may likewiſe diſpoſe him for ever to preſerve his intelligent creatures.

There is a continual creation of rational as well as animal natures.

But animal natures are certainly extinguiſhed; why not rational?

The firſt is neceſſary. The world would be overſtocked with animals, if generations did not die to make way for thoſe that were to follow.

But the world of ſpirits may, without inconvenience, increaſe for ever.

The desire of immortality is instinctive, and is a reasonable intimation of what is intended by the author of this desire.

The progress of man's intelligent nature may be continued beyond the attainments of this life.

Whoever considers the anatomy of the foetus will find in the structure of bones and muscles, in the organs of respiration and digestion, sufficient indications of a design to remove his being into a different state.

The observant and intelligent may perhaps find in the mind of man parallel signs of his future destination.

The government of God is righteous; but man's instinctive desire of distributive justice is not fulfilled in this life. Hence the universal belief, that wicked men are to receive additional punishments, and good men additional rewards, in a future state.

"Diverso itinere, malos a bonis loca tetra, "inculta, foeda, atque formidolosa, habere[2]."

[2] Cato, in Sallust's Hist. Cat. conspiracy.

INSTITUTES OF MORAL PHILOSOPHY.

PART IV.

OF MORAL LAWS, AND THEIR MOST GENERAL APPLICATIONS.

CHAP. I.

Definitions.

MORAL law, as diſtinguiſhed from phyſical law, is any general expreſſion of what ought to be.

In this ſenſe, the rules of art, the canons of beauty and propriety, relating to any ſubject whatever, are to be claſſed with moral laws [1].

Moral law, as referred to intelligent natures, is any general expreſſion of what ought to be choſen or done.

[1] See Hutcheſon of the Ideas of Beauty and Virtue.

Mechanical operations proceed without object or opinion.

Animal operations are determined by inſtinct.

Rational actions by opinion, or conception of what is good.

Hence good, wherever apprehended or expreſſed, implies an obligation to determine the choice of every rational being to which it refers.

The neglect of it, in moral actions, is matter of indignation or blame.

Moral laws may be conſidered under different aſpects, and diſtinguiſhed by different titles.

Conſidered in reſpect to their ſource, they may be diſtinguiſhed as original, or natural and adventitious, or conventional.

Conſidered in reſpect to their ſubjects, they may be diſtinguiſhed by denominations taken from thoſe ſubjects; as laws of religion, or of ſociety; as laws of peace, or of war; as laws political, civil, or criminal.

Conſidered in reſpect to the perſons to whom they are applicable, they are laws of nations, or the laws of particular ſtates.

Moral philoſophy is the knowledge of moral laws, reſpecting their ſources and their applications.

The obligation of every law, whether original or adventitious, general or partial, may be reſolved into an obligation of the law of nature.

The firſt or fundamental law of nature relative to mankind, is an expreſſion of the greateſt good competent to man's nature.

Subſequent laws are branches and applications of this.

CHAP II.

OF GOOD AND EVIL.

SECT. I.

General application of these terms.

THE terms *good* and *evil* are applied to enjoyment and suffering, perfection and defect, prosperity and adversity.

Enjoyment and suffering are opposite conditions of a sentient nature.

Perfection and defect are the opposite conditions of an improvable or progressive nature.

Prosperity and adversity are the opposite conditions of things contingent, in which the most fortunate have not a choice.

SECT. II.

Of Enjoyments and Sufferings.

THE enjoyments and sufferings competent to man's nature, are either animal or intellectual.

The firſt are mere animal ſenſations of pleaſure and pain, or the gratifications and the wants of appetite.

The ſecond are ſentiments attending the conception or conſciouſneſs of good and evil, ſuch as love and hatred, joy and hope, or grief and fear; or, in general, the occupation or inoccupation of powers naturally active, and agreeable or diſagreeable.

SECT. III.

Of Perfection and Defect.

THE principal perfections of man's nature are, benevolence, wiſdom, and force of mind.

The principal defects are, malice, folly, ſenſuality, and cowardice.

This contraſt is commonly expreſſed in the terms *Virtue* and *Vice*.

SECT. IV.

Of Proſperity and Adverſity.

THE circumſtances relative to man's nature that conſtitute proſperity are, health, education, ſecurity, fortune, and long life.

The oppoſite circumſtances that conſtitute adverſity are, diſeaſe, neglect, thraldom, poverty, and death.

SECT. V.

Of the Queſtion relating to the Supreme, or ſole Good.

THE characters of men are variouſly formed upon their predilection for pleaſure, honor, or profit; and diſputes have ariſen in the ſchools of philoſophy concerning the preference to be given to one or other of theſe, in erecting a ſyſtem.

In ſtating the object of this controverſy, we may aſſume, that men muſt owe their meaſure of happineſs either to the gratification of natural deſire; to the quality of their diſpoſitions, and the proper exertion of their natural powers; or to both theſe united.

This aſſumption will enable us to compriſe every doctrine on the ſubject of happineſs, under what was taught by the Epicureans, the Peripatetics, or the Stoics.

The Epicureans ſuppoſed the ſupreme good to conſiſt in the enjoyment of what we are by

nature led to desire; and, as desire originates in the sense of pleasure, they contended for pleasure as the supreme or sole good, and the measure by which the value of excellence itself was to be estimated.

Thinking independence, however, necessary to the completion of happiness, they supposed the perfect man capable of enjoying his pleasure not only in the absence of every external cause, but in the midst of circumstances of a contrary effect.

The Academy, and, after them, the Peripatetic School, distinguished excellence from pleasure, and gave to the first a superior place in the scale or estimate of things good.

They observed, that all desire does not originate in the sense of pleasure.

That there are various propensities of nature, prior to the experience of pleasure or pain.

Such are the propensities of every animal to the use of his organs: The propensity of man to the use of his faculties.

The natural affection of parents to their children.

Love and confidence, founded in sympathy or conceptions of merit.

Ambition and elevation of mind, founded in the conception of excellence and worth.

They obſerved, that, to theſe, or ſome of them ſeparately, we are willing, on many occaſions, to ſacrifice every conſideration of pleaſure or profit, and to incur every circumſtance of pain or loſs.

They maintained alſo, that the meaſure of happineſs which men attain, is not to be eſtimated from the degree in which they poſſeſs or enjoy the objects of deſire; but more from the part they take, or from the conduct they hold in this active ſcene, where ſo many affairs and tranſactions ariſe in purſuing the objects of original deſire; but where the conduct of the perſon acting is nevertheleſs the principal conſideration.

In juſt conduct, the virtue or ſupreme excellence of a man conſiſts; and in this alſo conſiſts the ſupreme good to which he ought to aſpire.

That, although human life is put in motion by the ſpring of certain original deſires, yet, that the motion itſelf is of more importance than the moving power which gave riſe to it.

Wiſdom is of more value than the external advantage ſecured by it.

Benevolence is of more value than the benefit conferred by it.

And, in general, that, wherever man is the inſtrument employed for the attainment of external ends, the means are of more value than the end.

They did not, however, venture to aſſert that the end was indifferent, or that the life of a virtuous man might be equally happy in adverſity and in proſperity.

They were contented with giving to virtue the higheſt place in the ſcale of happineſs; and they ſuppoſed it to be ſo much above that of every other good, whether of pleaſure or profit, that the higheſt meaſures of theſe were never to be put in competition with the obligations of integrity and juſtice, even in matters of the ſmalleſt importance.

The Stoics concurred with the Peripatetics in the principal parts of this argument. They diſtinguiſhed between the occaſion on which a man acted, and the action itſelf. The firſt might be, and actually was frequently of a trivial nature, while the action was of great importance. This they farther explained, and urged more forcibly than the Peripatetics had done.

They maintained, that good and evil conſiſted altogether in the part which a man acted, not in the circumſtances in which he was placed.

In their controverſy with the Peripatetics, they laid hold of the conceſſions made by the latter, in reſpect to the preference due to any conſideration of juſtice before the higheſt conſiderations of pleaſure or profit; and maintained, that it was abſurd to ſtate, under the ſame denominations of good and evil, things in their nature ſo different, that the higheſt conſideration of one kind could not be brought in competition with the loweſt of the other.

That this was not merely in words, to confound things together, which ought to be ſtated apart; but to countenance heſitation and irreſolution, when ſacrifices of pleaſure or intereſt were to be made to conſiderations of juſtice and duty.

They obſerved, that, as the people are often miſled by the inaccuracy of their own expreſſions, it is no inconſiderable object of philoſophy to correct this defect, and to teach men to call nothing good but that which is to be choſen at all times, and without any exception whatever, and not to indulge them in the error of confounding, under the ſame

appellations, things contingent with things which are in their own power, and for which they are reſponſible.

They obſerved, that it was abſurd in the Peripatetics, who acknowledged the ſupreme excellence of the virtues, among which magnanimity and fortitude had a principal place, nevertheleſs to ſuppoſe that happineſs would be more complete if there were no occaſion to call forth or to exerciſe theſe virtues.

It appeared abſurd to ſtate, under the ſame denomination of good, the wealth which the miſer coveted, and the contempt of that wealth which the liberal ſometimes expreſſed, and always maintained when proper.

For theſe reaſons, the Stoics limited the appellations of good and evil to virtue and vice alone.

Their ſyſtem, in the common acceptation of words, ſeemed to be made up of paradox. Pain was no evil; pleaſure was no good; all external events, whether proſperous or adverſe, were indifferent: But this, in their language, meant no more than that there was no moral turpitude in pain, no moral excellence in pleaſure; that virtue might be

practiſed equally in all events, whether proſperous or adverſe.

When the occaſion did not require a different choice, pleaſure was to be preferred to pain, and proſperity to adverſity; that, as pleaſure was often to be rejected, and pain to be embraced, it was abſurd to call that good which it was good to reject, or evil, which it was an evil to avoid. There was, in the proper or improper uſe of what befel us, a real good or evil; but this good was to be found in adverſity, as well as proſperity, and the evil no leſs in proſperity than in adverſity.

Thus we may conceive, that the Epicureans made happineſs to conſiſt in the objects of their purſuit, or in the enjoyment of them.

That the Stoics placed it in the proper choice of their purſuits, and in the integrity and wiſdom of their conduct; whilſt the Peripatetics required both to complete the idea of happineſs, or the ſupreme good.

There were other ſchools, whoſe language differed from that of the ſects we have mentioned, but who, in reſpect to the effect or tendency of their ſyſtems, might be involved with one or other of theſe.

In

In general, it may be affirmed, that every ſect acknowledged the neceſſity of virtue, or allowed, that, in every well directed purſuit of happineſs, the ſtricteſt regard to morality was required. The Stoics alone maintained that this regard itſelf was happineſs, or that, to run the courſe of an active, ſtrenuous, wiſe, and beneficent mind, was itſelf the very good which we ought to purſue.

SECT. VI.

Of the Conſiderations from which an Eſtimate may be made of what is moſt valuable in Human Life.

IT is a maxim allowed in ſome inſtances, that we ought not to diſpute about taſtes; but this, in every caſe, is certainly not true.

We are by nature qualified to diſtinguiſh taſtes themſelves, as worthy and unworthy, as well as to diſtinguiſh other objects by means of our taſtes.

We think meanly of ourſelves for the pleaſures we take, or the pains we ſhun; and we

think well of ourſelves for the pleaſures we forego, or the pains we endure.

The feeling of the preſent moment, unſupported by experience of its effects, unjuſtified by any judgment of its value, and unwarranted by obſervation of what paſſes in human life, is a very uncertain, fleeting, and fallacious ſtandard of eſtimation.

To chuſe well, we ought to conſider not only what is at preſent agreeable, but what occupies the mind moſt intenſely, what occupies moſt continually, and what is the moſt permanent ſubject of ſatisfaction and eſteem.

By this teſt the ſeveral articles of reputed good and evil may be ſafely examined and eſtimated.

Animal enjoyments are occaſional and tranſitory; they pall on the ſenſe, or muſt wait the returns of appetite.

They occupy, therefore, but a ſmall portion of human life.

Senſuality, or the attempt to render them continual, impairs the power of enjoyment, and the faculties of the mind.

Senſuality is a diſtemper of the imagination, of which the languors or diſguſts need to be remedied by a mixture of rational amuſements and paſtimes.

The ſenſe of animal pleaſure ſeems deſtined to excite to action, and to direct man to what is ſalutary, but not to conſtitute the enjoyment of human life. Bodily pain is occaſional, but not always tranſient.

It appears deſtined to direct men in ſhunning what is pernicious.

It is prolonged to a greater meaſure than any bodily pleaſure, and ſometimes actually ends only in death.

Suitably to its final cauſe, the pain remains while the attack on animal life continues; and it increaſes as the danger approaches.

In human life, for the moſt part, bodily pains are but ſlightly experienced, and are not the evil which we have moſt to fear.

The continued enjoyments of men in human life, ariſe from their active engagements, their affections, joys, and hopes.

Their continued ſufferings ariſe from ill temper, envy, jealouſy, malice, and cowardice.

Men are beſt amuſed with exerciſes that engage them moſt, that awaken their affections, and occupy their talents.

For this reaſon the more ſerious and urgent occupations are to be preferred to the more ſlight and apparently pleaſant.

Men of buſineſs have more enjoyment than men of diſſipation.

The reverſe of amuſement is inoccupation and languor.

Affections are pleaſant, in proportion as they are ardent, diffuſed, and extenſive.

Malice is painful, in proportion as it is diffuſed, rancorous, and implacable.

Joy and hope are intenſe and permanent, in proportion as they are founded in juſt opinions of things.

Falſe opinions lead to tranſient joy and to diſappointment.

Grief, and fear, and diſappointment, are moſt frequent where men moſt miſtake the moment or value of things.

Vehement affection, active engagement, or paſſion, ſuſpend the ſenſe of bodily pleaſure or pain.

Intellectual enjoyments, in general, are preferable to the animal, as they may be rendered continual, or occupy the greater part of human life.

It appears, upon the whole, that ſerious engagements, benevolent affections, and juſt opinions, are the preferable ſource of enjoyments in human life.

It has been obſerved, that one of the ſtrongeſt propenſities in human nature is ambition, that which tends to perfection, or the bettering ourſelves.

The phenomena of this propenſity are mixed, its abuſes, emulation, pride, and vanity, are mixed with moral approbation, magnanimity, and elevation of mind.

Under the influence of this propenſity, men forego any pleaſure, or incur any pain.

Benevolence, or the love of mankind, is the greateſt perfection; it is likewiſe the ſource of greateſt enjoyment.

Wiſdom, or a juſt eſtimation of things, is the beſt ſecurity againſt diſappointment, deſpair, and all the wretched paſſions.

Temperance is the proper uſe of enjoyments of every ſort.

Fortitude is an antidote to dejection and fear, the beſt ſecurity in danger, and the beſt alleviation of unavoidable ſufferings.

The higher animal pleaſure is rated, the more temperance, or the proper uſe of them, muſt be valued.

The more bodily pain appears formidable, the more fortitude, that enables men, with

preſence of mind, to avoid, or with patience to endure it, is to be valued.

The greateſt defects, as well as ſufferings, of men, are malice and cowardice, or reſult from intemperance and folly.

In human nature, therefore, the moſt eligible enjoyments, and the ſtate of leaſt ſuffering, coincides with the moſt excellent ſtate of the character.

Proſperity is actually valued, on account of its ſuppoſed tendency to conſtitute enjoyment, or to better our ſtate.

Health enables us to attain to the preferable enjoyments and accompliſhments of human life, but is not an abſolute ſecurity for either.

The proper uſe of health is good, the abuſe is evil.

Good education is calculated to promote good diſpoſitions, and to beſtow valuable accompliſhments.

Neglect has an oppoſite tendency.

But neither the beſt nor the worſt education neceſſarily produce any preciſe effect.

Security or liberty is beſt attained under wiſe political eſtabliſhments. It is the reſult of juſtice, and tends to promote the love of mankind.

This effect, and all the proper uſes of liberty, are good.

The abuſe is evil.

Thraldom is, in all reſpects, the reverſe of freedom or ſecurity.

Competency of fortune is ſufficient to all the purpoſes of animal life.

Increaſe of wealth does not proportionally increaſe enjoyment.

It often leads to ſenſuality, diſſipation, ſloth, pride, and diſdain.

Man is formed for mixed fortune; difficulties and dangers call forth powers, in the exerciſe of which his greateſt perfections and his greateſt enjoyments conſiſt [2].

Mere life is to him an opportunity to avail himſelf of the good, while it expoſes him likewiſe to incur the evil, of which his nature is ſuſceptible.

[2] Henry IV. ſays the Preſident Henault, was among the beſt and the greateſt of our Kings. He met with that which forms great men, and makes them known, *difficulties to be ſurmounted, dangers to be encountered;* and, above all, adverſaries who were worthy of him, as requiring the full exertion of all his abilities *.

* Abrégé de l'Hiſtoire de France, fin du règne de Henry IV.

The proper uſe of life is good, the abuſe of it is evil.

The value of proſperity, in general, depends on the proper uſe of advantages.

The proper uſe of things is a perfection of human nature.

The deſire of perfection, therefore, well underſtood, appears to be the ſureſt guide to enjoyment, and to all the advantages of proſperity.

All our enjoyments, beſides thoſe of ſenſe, ariſe from our having ſome purſuit or affection, to which pleaſure is not the object, but an acceſſion. Thus the pleaſures of hunting ariſe from eagerneſs to ſeize the prey; the pleaſures of occupation ariſe from the ardor with which we purſue our object, the pleaſures of affection ariſe from the regard we have for other men; and the pleaſure of good actions ariſes from the eſteem of virtue. If pleaſure be our ſole object, we muſt forego it in all thoſe inſtances.

The meaſure of good which any one poſſeſſes is to be eſtimated from his perſonal character, not from his circumſtances, or external means of enjoyment.

In the different denominations of good and evil, it appears that virtue and vice are of the greateſt moment.

The firſt is itſelf the greateſt advantage, the ſecureſt poſſeſſion, and that which enables men beſt to employ all other advantage, and all other poſſeſſions.

The ſecond is wretched in itſelf, and turns every other circumſtance into a curſe.

CHAP. III.

OF MORAL LAW, AND THE SUBJECTS TO WHICH IT IS APPLICABLE.

SECT. I.

Of the fundamental Law of Morality.

FROM the foregoing eſtimate, we may venture to affirm, that the qualities of man's nature are of more moment than any of the circumſtances in which men are placed, and that the firſt concern of a man is to conſider what he himſelf is, not how he is ſituated.

In ſtating a firſt principle of morality, however, it is not neceſſary to enumerate all the valuable qualities of human nature; it is ſufficient to ſelect ſome fundamental article, in itſelf important, and leading to the whole.

With theſe conditions, a principle will ſerve our purpoſe, the better for being expreſſed in few words, provided it bring into view that which is moſt eſſential, and that which is for ever to be kept in mind.

Under this deſcription, we may venture to aſſume, as a firſt principle of morality, that the greateſt good competent to man's nature is the love of mankind.

Benevolence, and the love of mankind, are terms nearly ſynonymous; but we prefer the latter in this place, as excluding pretenſions to merit on account of any ſentiment without an object, and as requiring, at once, all the efficacy of a good diſpoſition towards thoſe who are within its reach.

The law of benevolence may be applied ſeparately to mind, and to the external actions of men.

In its application to mind, it will lead us to enumerate the valuable qualities connected with it, whether as cauſe or effect; and it will lead us to complete the definition of virtue, or the deſcription of a rational nature accompliſhed and happy.

In its application to external actions, it will lead us to conſider in what variety of external forms the ſame diſpoſitions of mind may appear, and to mark out the tenor of conduct which the juſt will naturally hold.

SECT. II.

Of the application of the Laws of Morality to Mind; or of Happineſs.

HAPPINESS is the poſſeſſion of the greateſt good, or the poſſeſſion of a mind benevolent, wiſe, and courageous.

It is a diſtinction of the perſonal qualities of men, not of their ſituations.

The foundation of happineſs is a benevolent affection, ever directed towards ſome real object, but moſt intenſe towards the moſt worthy, and moſt active towards thoſe who need its aid.

Among its objects God is ſupreme.

This affection being an active principle, requires or inſpires all the qualities which are requiſite to attain its end.

Among theſe qualities wiſdom occupies the principal place.

An extenſive and juſt underſtanding leads to piety, benevolence, and candor.

Good intentions have not the correſponding effects, if not properly conducted.

Good intentions, when miſled or abuſed, end in diſguſt, or in a too general diffidence of mankind.

This diſpoſition requires courage and fortitude; for weak minds are too much occupied with their own ſafety to entertain any ſincere or vigorous affection.

It requires temperance; for men addicted to ſenſuality or diſſipation are not capable of continued or ſerious attachments.

This affection, when ſincere and ardent, naturally occupies the mind to the excluſion of inferior pleaſures, of perſonal anxieties, and fears; and is therefore a principle of temperance and fortitude.

SECT. III.

Of the degrees of Happineſs, and the actual attainments of men.

THE definitions of perfect happineſs and of perfect virtue are the ſame.

Univerſal benevolence, unerring wiſdom, a force and elevation of mind, which inferior pleaſures cannot ſeduce, and which blameleſs ſufferings cannot depreſs.

In giving this definition, we preſent an object of deſire, without attempting to determine in what meaſure or degree it has ever exiſted.

Men conceive perfection, but are capable only of improvement.

The conception of perfection is a light to direct their progreſs.

The object of moral philoſophy is, to aſcertain this conception, not to determine in what degree it is realized.

The diſpoſitions of men are various, and their forces unequal: It is impoſſible to aſcertain the limits of their progreſs.

Human nature fails in the direction it takes, not in the force with which every man endeavours to better himſelf.

Different men, in the purſuits of ambition, take different directions.

It is the ambition of one man to be rich, of another to be noble, of a third to be renowned; it would be eaſier to improve in the merits of a juſt and vigorous mind.

Men commonly are what their conceptions and habits of thinking have a tendency to make them. Miſerable under the effect of conceptions that miſlead or enfeeble the mind. Happy under the effect of conceptions of an oppoſite tendency.

SECT. IV.

Of Opinions or Conceptions productive of Misery, or that hinder Improvement [3].

IT is unhappy to lay the pretenſions of human nature ſo low as to check its exertions. The deſpair of virtue is ſtill more unhappy than the deſpair of knowledge.

It is unhappy to entertain notions of what men actually are, ſo high, as, upon trial and diſappointment, to run into the oppoſite extreme of diſtruſt.

It is unhappy to reſt our own choice of good qualities on the ſuppoſition that we are to meet with ſuch qualities in other men, or to apprehend that want of merit in other men will diſpenſe with that juſtice or liberality of conduct which we ought to maintain.

It is unhappy to conſider perfection as the ſtandard by which we are to cenſure others, not as the rule by which we are to conduct ourſelves.

[3] See Epictetus by Arrian, and Antoninus's Meditations.

It is a wretched opinion, that happineſs conſiſts in a freedom from trouble, or in having nothing to do.

In conſequence of this opinion, men complain of what might employ them agreeably.

By declining every duty, and every active engagement, they render life a burden, and they complain that it is ſo.

By declining buſineſs to go in ſearch of amuſement, they reject what is fitted to occupy them, and ſearch in vain for ſomething elſe to quicken the languor of a vacant mind.

It is therefore unhappy to entertain an opinion, that any thing can amuſe us better than the duties of our ſtation, or than that which we are in the preſent moment called upon to do.

It is an unhappy opinion, that beneficence is an effort of ſelf-denial, or that we lay our fellow creatures under great obligations by the kindneſs we do them.

It is an unhappy opinion, that any thing whatever is preferable to happineſs [4].

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[4] There is hardly a man to be found, ſays an ingenious obſerver, who would not rather be in pain to appear happy, than be really happy to appear miſerable; *Tatler*, No. 63.

The vulgar, as well as the learned, have their paradoxes: They frequently prefer intereſt, fame, and power, to acknowledged happineſs.

They prefer conſideration, or the imputation of worth, to worth itſelf.

It is wretched to rely for happineſs on what we cannot command.

It is wretched to have an opinion of good in things which we might forego with indifference, or of evil in things which we might endure with patience.

It is an error to employ terms of admiration or contempt looſely, and without attention to their proper meaning.

We vulgarly ſay, that *a man* is the better or the worſe, when we mean only that ſomething has happened to affect his fortune.

Such phraſes, we ſuppoſe, may be underſtood; but, like many others of the ſame kind, they ſlur over a very abſurd apprehenſion, that confounds external circumſtances with perſonal qualities, and what does not belong to a man with what does.

Men, to appear happy, run into prodigality, and incur ſerious diſtreſs.

SECT. V.

Of Opinions or Circumſtances productive of Happineſs, or that lead to Improvement.

IT is happy to value perſonal qualities above every other conſideration; and to ſtate perfection as a guide to ourſelves, not as a rule by which to cenſure others.

It is happy to rely only on what is in our own power; to value the characters of a worthy, benevolent, and ſtrenuous mind, not as a form merely to be obſerved in our conduct, but as the completion of what we have to wiſh for in human life, and to conſider the debaſements of a malicious and cowardly nature, as the extreme miſery to which we are expoſed.

It is happy to have continually in view that we are members of ſociety, and of the community of mankind; that we are inſtruments in the hand of God for the good of his creatures; that, if we are ill members of ſociety, or unwilling inſtruments in the hand of God, we do our utmoſt to counteract our nature, to quit our ſtation, and to undo ourſelves.

I am in the ſtation which God has aſſigned me, ſays Epictetus. With this reflection, a man may be happy in every ſtation; without it, he cannot be happy in any. Is not the appointment of God ſufficient to outweigh every other conſideration? This rendered the condition of a ſlave agreeable to Epictetus, and that of a monarch to Antoninus. This conſideration renders any ſituation agreeable to a rational nature, which delights not in partial intereſts, but in univerſal good.

Whoever has found conceptions of things, and poſſeſſes good perſonal qualities, holds them in dependence only upon God; but the circumſtances in which men are placed; the policy or government of their country; their education, inſtruction, and example, have great influence in determining what they ſhall think, and what they ſhall be inclined to perform.

SECT. VI.

Application of the Laws of Morality to External Actions in general.

EXTERNAL actions, in reſpect to the perſon who performs them, if conſidered apart from affection or intention of mind, are mere movements of the body, conſtituting neither enjoyment nor ſuffering, good nor evil; and, in reſpect to the perſons affected by them, are mere phyſical cauſes, producing benefit or harm, but without any moral quality whatever.

But affection, intention, or will, being good or evil, it follows, that the ſame law of morality which requires or forbids the affection, muſt likewiſe require or forbid the external conduct that is ſuppoſed to reſult from it.

The law which requires the love of mankind, ſupported by wiſdom, courage, and temperance, likewiſe requires every external action that is ſuited to this affection, and to theſe qualifications.

The law that prohibits malice, remiſſneſs, cowardice, or intemperance, prohibits likewiſe every external effect of theſe characters.

Sect. VII.

Diverſity of Opinions concerning the Morality of External Actions.

Notwithstanding the alarming difference which all mankind conceive between innocence and guilt, honor and diſhonor; yet, in comparing their judgments, they do not appear to be agreed concerning the actions which they require or prohibit in any caſe whatever. What is reckoned innocent or praiſe-worthy in one country, is reckoned a heinous offence in another. The definitions of theft, murder, or treaſon are different in the laws of different countries; and actions materially the ſame are, in one caſe, morally good, in another caſe morally evil.

The terms expreſſing the external duties of men in one language, have not a preciſe equivalent in another. Hence we are ſometimes inclined to doubt the reality of any ſtandard by which to aſcertain the diſtinction of right and wrong.

SECT. VIII.

Causes of this Diversity.

THIS difficulty may, in part, be removed by observing, that, as mere external actions, apart from intention and will, have no moral quality, we must not expect to ascertain the distinction of moral good and evil in the description of external actions. We must look for it in what is characteristic of human nature, *will*, *intention*, and *design*, whether benevolent or malicious.

Concerning these, there has been no diversity of judgment.

All mankind are agreed, that benevolence and courage are good, that malice and cowardice are evil; and, if it should be alledged, that any number of men are of contrary opinions, yet every person may, from his own experience, correct the error.

The different acceptation of external actions proceeds from three different causes:

1. The difference of the case.

2. The different choice of the parties who are affected by the action in question.

3. The different interpretation of actions.

Sect. IX.

Difference of the Caſe.

Cases change with the perſon, and with circumſtances.

An action materially the ſame is permitted to one perſon, and forbidden to another: It is the duty of a magiſtrate to put the guilty to death; this would be criminal in a private party.

A perſon may kill in his own defence, but not in different circumſtances.

Caſes are varied indefinitely; and rules of action being general, cannot provide for all the peculiarities of any caſe whatever.

The only direction on which men can rely in every particular caſe, is the diſcernment of a wiſe and benevolent mind.

SECT. X.

Difference of Choice.

THE different choice of parties interested in the effect of any action, arises from opinion.

One person believes that to be good for himself, which another person believes to be evil. In their requisition of beneficent actions, they differ accordingly: One man requires as a favor what another would resent as an injury.

There is no external effect of which men may not entertain contradictory opinions, even of life and of death.

The father among the Esquimaux requires, at a certain age, that his own children should put him to death.

The widow in Europe desires to have a good settlement made by her deceased husband: In India, she desires to be burnt on his funeral pile.

In every case, actions are required as the effects or expressions of kindness and regard.

SECT. XI.

Difference of Interpretation.

In many inſtances, external actions are, in their own nature, indifferent, or of no effect; but are the eſtabliſhed ſigns and expreſſions of neglect or attention, of good or of ill will, or of ſome affection or diſpoſition.

Such are many religious rites in every country, and many ceremonies obſerved in common life. Even actions of more conſequence are frequently more regarded on account of their meaning, than on account of any other effect.

The ingenuous or malicious mind is ſo well known in every age or country by ſome determinate courſe of life, that the cuſtomary action alone is ſufficient to procure approbation or blame: We look no farther in diſtinguiſhing right and wrong; and, as the peaſant is ſurpriſed to hear a language different from his own, and doubts whether they who uſe it poſſeſs the ſame faculties of reaſon with himſelf; ſo we are ſurpriſed to be told that men are pleaſed with what is offenſive, or diſpleaſed

with what is agreeable to us, and doubt whether they have like ſentiments of morality with us.

But, ſo far as actions are mere expreſſions, the choice of them, like that of words, is perfectly arbitrary; and nations may differ from each other in their external obſervances, as they do in their ſpeech, without any inconvenience whatever. One nation commends what another condemns, merely becauſe they interpret the ſame, or a like action, differently.

The diverſities of manners ariſing from difference of choice or interpretation, render it difficult to judge of the merits or perſonal qualities of men, in ages or nations remote from our own.

The vulgar are able to interpret only the manners of their own condition and country; they commonly miſtake thoſe of a different rank, or of foreigners.

There is, in fact, nothing in external manners which opinion may not render agreeable or diſagreeable; and the opinion of one country is not the rule or ſtandard by which to judge of the manners of another.

The definitions of crimes vary in the law of different countries; becauſe different overt acts are ſpecified as the marks of guilt.

Terms of praiſe or blame have not their preciſe equivalent in different languages; becauſe men combine variouſly, under different terms, the circumſtances from which they infer merit or demerit.

This is conſiſtent with a perfect agreement of opinion concerning any particular circumſtance apart, as well as, in general, concerning what is good or evil, in the diſpoſitions of men.

SECT. XII.

Fundamental Laws of External Action.

1. IN matters indifferent, we ought to obſerve the manners of our country, as we ſpeak its language, or wear its dreſs.

2. In matters of importance, we ought to chuſe what is for the good of mankind, in oppoſition to opinion and cuſtom.

Thus we ought to do whatever tends to inſpire benevolence, to check malice, and to ſecure the rights of mankind; and ought to avoid whatever has a contrary effect, and whatever tends to make way for oppreſſion.

When the habits or affections of men change for the better or the worſe, they improve or degenerate.

When their cuſtoms change from what is innocent, or beneficial to mankind, to what is pernicious, they are ſaid to undergo, not a change of manners merely, but to be depraved.

If they ſhould be ignorant of the tendency of their own pernicious cuſtoms and manners, even this ignorance would be an article of depravity.

SECT. XIII.

Of the different Sanctions under which External Actions are required or prohibited.

THE ſanction of any law is the good or ill annexed to the obſervance or to the neglect of it.

The general ſanction of moral law is, that the obſervance of it is happineſs, and the neglect is miſery.

This ſanction is variouſly modified in the caſe of external action, by conſiderations of force, or conſiderations of propriety, and inducements of choice. Hence,

1. The ſanction of compulſory law.

2. The ſanction of duty.

The ſanctions of compulſory law are, any forcible means employed by men to vindicate their own rights, or thoſe of others.

The ſanctions of duty are, any conſiderations that determine men, from choice, to act properly.

SECT. XIV.

Of Parties to whom the Laws of Morality refer.

THE laws of morality may be referred to the conduct of ſingle parties, in reſpect to one another, or to the proceedings of collective bodies, in reſpect to their own members.

The conduct of ſingle parties is required, or prohibited, either under the ſpecial ſanctions of compulſory law, or under the ſanctions of duty.

Conduct required or prohibited under the ſanction of compulſory law, is the ſubject of juriſprudence.

Conduct required or prohibited under the ſanction of duty, is the ſubject of caſuiſtry.

Proceedings of collective bodies, in what affects the state and form of their community, is the subject of politics.

Communities stated in their relation to each other, are to be considered as single parties.

INSTITUTES
OF
MORAL PHILOSOPHY.

PART V.

OF JURISPRUDENCE.

CHAP. I.

Of the Foundations of Compulsory Law.

THE fundamental law of morality, in its first application to the actions of men, is prohibitory, and forbids the commission of wrongs.

Every person being entitled to defend himself and his fellow-creatures, may repel any wrong by force; and the prohibition of wrongs is the first compulsory law of nature.

Any article in the state of a man which may be maintained by force, is termed *his right.*

Jurisprudence consists of two parts.

The first relates to the rights; the second, to the defences of men.

CHAP. II.

Of the Rights of Men in general.

A Right is ſuch a relation of the perſon to a thing, that no alteration ought to be made in it without his own conſent.

The term *ought*, in this definition, implies a ſentiment of moral obligation.

Things are the conſtituents of the perſon, or the conſtituents of a perſon's ſtate.

A regard to the rights of men is comprehended in the law of ſelf-preſervation, combined with the law of ſociety; or, in other words, this ſentiment of right is inſeparable from our diſpoſition to preſerve ourſelves, and our fellow-creatures.

Wrong is a violation of right. The moral ſentiment ariſing from a ſenſe of wrong in our own caſe is exaſperated by reſentment; in that of others, is indignation, conceived on the perception of guilt in one, and of ſuffering in another.

No one can have a right to what is not poſſible, or not real.

The right of one man to any given thing, excludes the claim of another to the ſame thing.

CHAP.

Chap. III.

The Law of Defence in general.

A Right may be maintained by any means that are effectual and neceſſary.

This law of defence includes three clauſes:

1. That a wrong apprehended may be prevented.

2. That a wrong offered may be repelled.

3. That a damage done ſhould be repaired.

CHAP. IV.

OF RIGHTS OF DIFFERENT DENOMINATIONS.

SECT. I.

General Diviſion.

RIGHTS may be conſidered in reſpect to their ſubject, or in reſpect to their ſource.

In the firſt reſpect, they are ſaid to be perſonal, or real.

In the ſecond, they are ſaid to be original, or adventitious.

SECT. II.

Of Rights Perſonal.

PERSONAL rights ſubſiſt in the perſon, and relate to the conſtituents of his nature.

Perſons are ſaid to be natural or artificial.

Perſons natural are ſingle men.

Perſons artificial are corporations or ſtates.

The rights of natural perſons ſubſiſt in the limbs and members of the body, in the faculties and talents of the mind, and the uſes of both.

The rights of artificial perſons ſubſiſt in their conſtituent members, their forms, and their laws.

Sect. III.

Of Rights Real.

Real rights ſubſiſt in things of which any perſon may have the excluſive uſe.

Real rights may be referred to three principal heads:

Poſſeſſion, Property, and Command.

Poſſeſſion conſtitutes right only while a thing is in actual uſe.

Property conſtitutes a continual right.

No one can have a right of poſſeſſion to the property of another.

Command is a right to the ſervices or obedience of other men.

Sect. IV.

Of Original Rights.

Original rights are the univerſal appurtenances of man's nature, and coeval with his being.

The perſonal rights of men are original.

If we ſuppoſe that nature authorizes whatever is neceſſary to the preſervation of her works, the right of the parent to command the infant child is original; but, in every other inſtance, no man has an original right to force the obedience of another, except in obliging him to abſtain or deſiſt from wrongs.

SECT. V.

Of Adventitious Rights.

ADVENTITIOUS rights are ſuch as accrue variouſly to men in the courſe of human life.

Original rights are recogniſed on being mentioned.

Adventitious rights are matter of diſcuſſion, and recogniſed only ſo far as they are proved.

In treating of adventitious rights, we muſt not only enumerate their ſubjects, but likewiſe the means by which they may be acquired.

Poſſeſſion, property, and command are adventitious rights.

The adventitious diſtinctions in ſociety are founded, for the moſt part, on property and command.

CHAP. V.

Of the Laws of Acquisition in general.

No right can be acquired by injustice; or, in other words, by any deed pernicious to mankind.

The means of acquiring any right may be referred to four principal heads:

Occupancy, Labor, Convention, and Forfeiture.

CHAP. VI.

Law of Occupancy.

OCCUPANCY is such a relation of a person to a thing, as that no other person can use the same thing, without detriment or molestation to the occupier.

In this manner, a person may occupy the ground on which he lies, the water he drinks, the air he breathes, the light that shines upon him, the tract of the sea on which he sails; but no one can occupy the earth, the passing stream, the atmosphere, the light of day, or the ocean.

CHAP. VII.

The Law of Acquiſition by Labor.

LABOR is any effort by which a perſon may, for his own uſe, fabricate, procure, or improve any unappropriated ſubject.

The right acquired to the fruits of labor, is implied in the original right all men have to the uſe of their talents or faculties.

Prior to convention, men do not acquire rights by the obſervance of any form or ceremony that is of no effect; for the right acquired is only to the uſe of what is produced.

Mere acceſſion, or what is not the effect of any care and labor, if there be no convention to the contrary, falls to the firſt occupier.

The increaſe of a man's flocks or herds, being the fruits of his care, is his property; but the acceſſion of new lands or iſlands contiguous to his, falls to the firſt occupier.

A man, by laboring on another's property, cannot annul the other's right; on the contrary, the fruit of his labor, if it cannot be removed without damage to the principal ſubject, falls to the proprietor of that ſubject.

But a perſon who happens, *bona fide*, to employ his labor on the ſubject of another, may remove or enjoy the fruit of his labor, if this can be done without detriment or inconveniency to the other.

Civil conventions accommodate the effects of acceſſion or of labor to the conveniency of parties, and to the policy of particular ſtates.

Chap. VIII.

THE LAWS OF ACQUISITION BY CONTRACT.

Sect. I.

The Obligations of Contract.

A Contract is the engagement of parties to perform what is ſuppoſed to be in their power.

Engagements are made by promiſes.

Men, by nature, rely on the performance of promiſes.

The object of a promiſe or engagement becomes, to the perſon accepting of that promiſe, part of his ſtate; breach of faith is an injury, and he is entitled to repel it by force.

Here the compulſory law of Nature, which, in its original form, is prohibitory, or negative, becomes, in appearance, poſitive, requiring ſome actual performance; but the object of law is nevertheleſs a mere prevention of that wrong, which a breach of faith would conſtitute.

SECT. II.

Laws of Contract in general.

1. THE ſource of conventional obligation, is the right of one party to exact a performance upon which another has made him rely.

2. Contracts, therefore, create right only to what depends on the will of contracting parties.

3. To conſtitute a contract, mutual promiſes, or a promiſe and acceptance, are neceſſary between parties, acting freely, and poſſeſſed of the uſe of their reaſon.

Although one party has promiſed, if the other has not accepted, the laſt cannot pretend to have an expectation raiſed.

But mutual promiſe implies acceptance.

Men who are known to be under reſtraint or inſanity, cannot raiſe any reaſonable expectation.

4. A party may ſtipulate in perſon, or by his agent or meſſenger, in words, actions, or ſigns, that are underſtood.

5. A perſon is bound by the ſtipulations of a ſervant or meſſenger, to whom he has given

credentials, or whom he has authorized by ſufficient acknowledgments of his truſt.

6. Words are to be interpreted in their moſt ordinary ſenſe, or in the ſenſe in which it appears from other ſigns that they were intended to be uſed.

7. An action of any kind, performed with a view to raiſe expectation, or by which it is known that expectations are naturally raiſed, is ſufficient to conſtitute a contract.

8. Cuſtom is a reaſonable ground of expectation; and therefore is binding on all parties.

Great part of the civil conventions of men are conſtituted by the received cuſtoms of their country.

A practice introduced by force may become a legal cuſtom: for being ſuch as men are reconcileable to, after they are reconciled, and continue to obſerve it voluntarily, it becomes a matter of convention.

But practices, or ſufferings, to which men are not reconcileable, and with which they are made to comply by force, are uſurpations, and never can, on the foot of conſuetude, be conſidered as matter of convention.

SECT. III.

Contracts of different denominations.

CONTRACTS may be distinguished as absolute, or conditional; and as single, or reciprocal.

Absolute contracts are constituted by a simple promise and acceptance.

Conditional contracts express promise and acceptance under a condition.

Single contracts consist in the promise of one party, and acceptance of the other.

Here one party is promising, the other accepting.

Reciprocal contracts consist of mutual promises, and mutual acceptance.

Here each party is both promising and accepting.

SECT. IV.

Of the Exceptions to Contracts in general.

ANY promise given is rendered void, by the exceptions of force, fraud, injustice, or impossibility.

First Exception.

Force is conſtituted by actual violence, or menaces, employed by the accepting party.

This exception is valid.

1. Becauſe a perſon extorting a promiſe by force, cannot have a reaſonable expectation of its performance being intended.

2. Becauſe the party offering force commits an injury; and inſtead of acquiring a right, may be prevented, repelled, or obliged to make reparation.

N. B. This exception does not extend to the caſe of contracts entered into with one party, on account of the violence offered by another.

Nor is this exception admitted by the practice of nations in the caſe of any ſurrender at war, or military capitulation.

Second Exception.

Fraud is conſtituted by the deceit which a party employs to obtain a promiſe.

This exception is valid,

1. Becauſe a party who is known to be deceived concerning what he promiſes, cannot raiſe an expectation that he will perform when undeceived.

2. Becauſe deceit, or impoſition, is an injury, and gives a title to reparation.

N. B. This exception does not invalidate the promiſe made to an innocent party in conſequence of the miſinformation of another.

Nor does it invalidate any military capitulation, though obtained by ſtratagem.

THIRD EXCEPTION.

Injuſtice conſiſts in the wrong which a third party would ſuffer from the performance of a contract.

There are four different caſes in which this exception may be offered:

Caſe 1. When neither of the contracting parties was aware of the wrong.

In this caſe the contract is ſimply void.

Caſe 2. When only the party accepting was aware of the wrong.

In this caſe, the contract is void; and the party accepting has committed an injury againſt the party promiſing, as well as againſt the third party, who, if the contract had taken effect, was likely to have ſuffered.

Caſe 3. When only the party promiſing was aware of the wrong.

If he promiſed with intention to perform, he is injurious to the third party concerned.

If he promiſed with intention to plead the exception, he is injurious to the party accepting.

Caſe 4. When both parties were aware of the injuſtice.

Both are injurious to the third party concerned.

FOURTH EXCEPTION.

Impoſſibility extends to every caſe that cannot, in the nature of things, take place; to every article that exceeds the power, or that does not depend on the will, of the parties.

This exception, like the former, may be offered in four caſes.

Caſe 1. When neither contracting party was aware of the impoſſibility.

The contract is ſimply void.

Caſe 2. When only the party accepting was aware of the impoſſibility. —

This conduct is either irrational, or may be injurious to the party promiſing, by drawing him into ſnares and fruitleſs attempts.

Caſe 3. When only the party promiſing was aware of the impoſſibility. —

It is injurious to the accepting party, by creating vain expectations.

The 4th case, Supposing both parties aware of the impossibility, is altogether irrational and absurd.

SECT. V.

Exceptions peculiar to Conditional and Reciprocal Contracts.

ALL conditional contracts are void, if the condition has failed, or is found to be unjust or impossible.

The condition may be a mere contingency, or it may depend on the will of either party.

If a contingency, the parties may be allowed to interpose, as they do in games of skill and dexterity.

Or they may not be allowed to interpose, as in games of chance.

If the condition depend on the will of the party promising, he becomes bound to perform one action, only, in consequence of having performed another.

If

If it depend on the will of the accepting party, he acquires a right only in case of having performed his condition.

In mutual contracts, a party failing on his part, has no title to exact performance on the other part.

CHAP. IX.

Of the Law of Acquiſition by Forfeiture.

WHOEVER has done an injury is bound to repair it. In this manner, the injurious perſon may have forfeited to another what was formerly his own right.

No man can forfeit by actions caſual and involuntary. Such actions, when prejudicial to others, are misfortunes, not injuries.

Chap. X.

OF THE LAW OF ACQUISITION, AS APPLICABLE TO PARTICULAR RIGHTS.

Sect. I.

Of Poſſeſſion.

This is acquired by occupancy alone.

Sect. II.

Of Property.

This is acquired, to any ſubject formerly unappropriated, by labor alone.

The effect of preſcription in civil ſociety, reſults from convention, not from occupancy.

Property may be transferred by convention or forfeiture.

A convention transferring property, is a conveyance.

A conveyance conſiſts of conſent and delivery.

A party who has obtained conſent without delivery, may defend, or occupy, the ſubject, in right of the former proprietor, not in his own.

Hence it is argued, that the mere conſent of a party deceaſed, without delivery, cannot convey property; becauſe the party deceaſed having no right, the ſubject falls to the firſt occupier.

The force of laſt wills is an effect of convention among the living, not of right ſurviving the dead.

SECT. III.

Of the Right to Command.

THE right to command is acquired by contract or forfeiture.

The contract between the maſter and hired ſervant is a reciprocal contract.

The terms are ſuch as they mutually ſtipulate, or ſuch as known cuſtoms eſtabliſh.

The civil contract or convention between the magiſtrate and ſubject, or ſovereign and people, is likewiſe reciprocal.

The terms are ſuch as the parties ſtipulate in expreſs charters and ſtatutes, or ſuch as may be aſcertained from known cuſtoms.

The ſocial compact, from which, according to ſome writers, all the mutual duties of

men in ſociety are derived, is a mere fiction in theory, reſembling the fiction in law, by which a plea which ariſes from one ſource, is ſuſtained as coming from another.

Thus mutual pleas of guardian and ward, which aroſe from equity, were ſuſtained in the Roman law as ariſing from contract.

There never was in reality any contract prior to the eſtabliſhment of ſociety. Cuſtoms, charters, and ſtatutes, which conſtitute or expreſs the civil conventions of men, are all poſterior to the eſtabliſhment of ſociety.

Fictions of law may be convenient in arranging civil actions, but are of no uſe in explaining the laws of nature; for by the law of nature, every right, and every obligation, is admitted only where it is real, and can receive no confirmation from any fiction whatever.

The original rights of men, founded in humanity, and in the title of every perſon to defend himſelf, are ſo far from gaining force by being referred to a ſuppoſed convention, that they are actually weakened.

Men are equally ſenſible of their obligation to abſtain from wrong of any kind, as from breach of faith. The obligation to abſtain from breach of faith, is actually comprehended in

the more general obligation to abſtain from harm of any kind.

A right to command is ſometimes acquired by forfeiture, when a perſon who has done a wrong, becomes bound to repair it by his ſervices.

No contract or forfeiture can deprive a man of all his rights, or render him the property of another.

No one is born a ſlave; becauſe every one is born with all his original rights.

No one can become a ſlave; becauſe no one, from being a perſon, can, in the language of the Roman law, become a thing, or ſubject of property.

The ſuppoſed property of the maſter in the ſlave, therefore, is matter of uſurpation, not of right.

Chap. XI.

OF THE LAW OF DEFENCE.

Sect. I.

Of the Means of Defence in general.

By the law of defence, a perſon may maintain his right againſt any other perſon who wrongs, or is likely to wrong him, by any means that are neceſſary for this purpoſe.

The means of defence may be referred to three principal heads:

Perſuaſion, Artifice, and Force.

The law of defence does not authorize the uſe of any means that are unneceſſarily hurtful to the party againſt whom they are employed.

A man is entitled only to preſerve his own right: Whatever harm he does beyond what is neceſſary for this purpoſe, is an injury.

The law of defence may be applied to perſons in three different caſes:

1. That of ſingle parties ſuppoſed ſtrangers, and unconnected.

2. That of fellow-citizens.

3. That of nations.

SECT. II.

The caſe of Single Parties Strangers to each other, or unconnected.

THIS caſe is commonly treated of under the title of the ſtate of nature; and in this ſtate every man is ſuppoſed unconnected with all men.

It is abſurd to entitle that the ſtate of nature to which men are not naturally diſpoſed, and in which they moſt certainly never were known.

It is a mere ſuppoſition, under which certain applications of the law of nature may be abſtractly conſidered.

Writers have not recollected, that it was ſufficient for the purpoſe of their reaſonings, to ſuppoſe any two or more parties unconnected with one another, though not unconnected with all mankind.

Such parties are poſſeſſed of their original rights; but having no convention, can have none of thoſe rights, and none of thoſe obligations, which ariſe from convention alone.

If either party ſhould commit an injury againſt the other, the injured would be entitled to his defence.

It is vain to aſk, who is to judge between them; for all reference to judges is excluded by the ſuppoſition.

They muſt act and judge for themſelves; and where perſuaſion and artifice have failed, or are not likely to ſucceed, may employ force, but ſtill upon the ſuppoſition that they employ it only in defence of their right.

Sect. III.

The Caſe of Fellow-Citizens.

Fellow-citizens are connected by civil and political conventions; on which are founded a variety of adventitious obligations and rights.

The obligations of fellow-citizens are either thoſe of fellow-ſubjects, or of magiſtrate and ſubject.

Fellow-ſubjects have ſtipulated to refer their differences to the judgment of courts, and to employ, in their defence, the power of the magiſtrate.

This law admits of the following exceptions:

1. Where the judgment of courts cannot be had, nor the power of the magiſtrate interpoſed, to prevent an injury.

2. Where the relief by civil ſuit cannot be adequate to the injury apprehended.

Judges are bound to decide according to law and juſtice.

Magiſtrates are bound to defend the rights of the ſubject.

The magiſtrate, as acting in defence of the ſtate, and of its ſubjects, is entitled to repreſs crimes by reſtraints and puniſhments.

He is directed, in the application of reſtraints and puniſhments, by the law of nature, and of convention.

The law of nature, where there is no convention to the contrary, limits the power of the magiſtrate to what is neceſſary to defend the innocent. All reſtraints or ſeverities employed beyond theſe limits are unlawful.

It is not always expedient, in civil ſociety, to carry puniſhment to the utmoſt rigor even of natural law.

The laws of convention are various in different ſtates; in ſome nations permitting arbitrary impriſonment, unlimited ſeverities, and

tortures, for every crime, at the diſcretion of the magiſtrate.

Powers of this ſort are frequently uſurpations on the part of the magiſtrate, not his rights.

The rights of the ſubject are in danger, when the magiſtrate either adopts a rule that is unjuſt, or when his deciſions are irregular and arbitrary.

SECT. IV.

The Caſe of Nations.

AMONG nations, the act of the ſovereign, or of thoſe employed by the ſovereign, is conſidered as the act of the nation.

The act of any private perſon is not the act of the ſtate, except ſo far as, in his action, he is protected or acknowledged by the ſtate.

A nation may receive an injury in the perſon of any of its members.

A nation injured, may make repriſals on the perſons and effects of any, or all the ſubjects of the offending nation.

Nations who maintain controverted rights by artifice or by force, are ſaid to be in a ſtate of war.

War is juſt only on the ſuppoſition of injuries apprehended, offered, or perpetrated.

Remonſtrances and declarations, wherever they can be ſafely employed, ſhould precede hoſtilities.

The immediate object of war is victory.

The laws of war previous to victory are,

1. Such hoſtilities only are lawful as are neceſſary to obtain the victory.

2. Wherever it is ſafe to grant an enemy quarter, it is not lawful to refuſe it.

3. Breach of faith is exploded in the practice of nations at war, and would be ruinous to mankind.

4. Any party may aſſiſt the injured; but whoever aſſiſts the injurious, may be treated as an enemy.

5. The Perſon or effects of an enemy, wherever found, may be ſeized, if this can be done without detriment to any innocent party.

6. The effects of a friend going to an enemy, if they would enable him better to carry on the war, may be ſeized.

7. Captives may be detained while the war continues, and until ſatisfaction and ſecurity be obtained.

Laws of war after victory:

1. The conqueror may avail himself of his power to preserve his rights, and obtain reparation of a wrong that has been done him.

2. Success in war does not constitute a right; but damages and suffering incurred in war give a title to indemnification.

3. The conqueror may take such precautions, by disabling his enemy, as give him a proper degree of security for the future.

4. Nations do not acquire a property in the persons of their captives, as they do in effects lawfully seized.

Sect. V.

Conclusion of Jurisprudence.

By the maxims of compulsory law, a person may, on every occasion, maintain his right: But from considerations of duty, he is, on many occasions, obliged to forego it.

A person is more concerned to maintain and to exercise the affections of a beneficent mind, than he is to preserve his condition in any other respect.

The conventional laws of ſociety, in ſome inſtances, as well as the law of humanity, admit, that the extreme neceſſity of one party may ſuperſede the right of another.

INSTITUTES

OF

MORAL PHILOSOPHY.

PART VI.

OF CASUISTRY.

CHAP. I.

Of the Sanctions of Duty in general.

A LAW of duty is an expreſſion of what a perſon ought to do from choice; and in doing which, he is ſaid to have merit; or in doing the contrary, to have demerit.

The firſt application of the fundamental law of morality is prohibitory, forbidding the commiſſion of wrongs.

The ſecond is poſitive, requiring every external effect of virtue, or of good-will to mankind.

But acts of good-will or beneficence cannot be extorted by force.

The object of compulsory law, is the preservation of parties exposed to wrongs; who, in defending themselves, may, even by force, oblige others to desist from injuries.

The object of morality, in what relates to the duties of men, is the virtue of those who act.

Compulsion would alienate the affections of men.

Favors extorted by force would be robberies.

Whoever employs deception or force, except in his own defence, or in that of his fellow-creatures, commits an injury.

The sanctions of duty, are those of religion, of public repute, and of conscience.

CHAP. II.

Of the Sanction of Religion.

RELIGION is the ſentiment of the mind relating to God.

The ſanction of religion is its tendency to influence men's conduct.

This tendency is of two kinds.

The firſt is, to make men love wiſdom and beneficence, as being the characteriſtics of the Supreme Being, whom they adore; and to make them love their ſituations and their duties, as being appointed by Providence.

The ſecond is, to make them hope for rewards, and to fear puniſhments.

The religious doctrine of rewards and puniſhments is a ſpecies of compulſory law, extending to all the thoughts and inclinations, as well as the actions of men.

This law, in all its extent, can be ſafely applied by every perſon only to himſelf.

When magiſtrates think themſelves armed with the ſanction of religion, and entitled to

reſtrain thoughts as well as actions, they attempt what is placed beyond the reach of their power.

Superſtition, or the abuſe of religion, has been accompanied with very fatal effects:

With a miſapplication of moral eſteem, and the ſubſtitution of frivolous rites for moral duties; with cruel animoſities of party, and a falſe apprehenſion of ſanctity in any acts of injuſtice and horror that proceed from a ſuppoſed religious zeal.

Chap. III.

The Sanctions of Public Repute.

These ſanctions include the influence of prevailing opinions and examples, together with the commendations and cenſures men beſtow on the actions that pleaſe or offend them.

The influence of prevailing opinions and examples, ariſes from the ſocial nature of man; and is one condition by which men are fitted to act in companies and ſocieties.

The tendency of this influence is good or evil, according to the nature of the opinions or examples that prevail.

Nothing diſtinguiſhes men of a happy nature more than that force with which they are ſometimes able to correct falſe opinions, and with which they are always able to reſiſt their contagion.

It is part in the ſocial nature of man, to deſire praiſe, and to ſhun blame.

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This puts it in the power of every perſon to reward actions agreeable, and to puniſh actions diſagreeable to himſelf: But as commendation and cenſure are frequently ill diſtributed, it is a great weakneſs to be guided chiefly by ſuch conſiderations.

CHAP. IV.

Of the Sanctions of Conſcience.

THIS ſanction is conſtituted by the ſatisfaction men have in doing right, and the ſhame or remorſe which arifes from having done wrong.

Men being deſirous of perſonal excellencies, and averſe to perſonal defects, have ſatisfaction in actions that tend to the purpoſes of virtue.

They feel remorſe or ſhame for actions that tend to the purpoſes of vice.

The ſentiments of conſcience are frequently blended with thoſe of ſuperſtition or cuſtom, and, like them, are ſubject to error.

It is the object of caſuiſtry to prevent, or to correct ſuch errors, by pointing out the real tendencies of virtue and of vice in external actions.

CHAP. V.

OF THE TENDENCY OF VIRTUE IN EXTERNAL ACTIONS [1].

SECT. I.

Of the different branches of Virtue.

IT has been obſerved, that a fool can neither come into company, nor go out of it; can neither ſit, ſtand, nor walk, like a man of ſenſe [2]. It may be ſaid likewiſe, that a knave can do nothing like a man of probity.

The law of external action is ſo eſſential to morality, that men very frequently confine the whole of morality to this law.

But virtue is, in reality, a qualification of the mind, although the term equivalent to *virtue*, in every language, implies all the required effects and appearances of this qualification.

Its conſtituents are, Diſpoſition, Skill, Application, and Force.

1 Cicero de officiis, lib. 1.

2 Maxims of La Bruyere.

Correſponding to the number of theſe conſtituents, virtue has been divided into four capital branches, called the *Cardinal Virtues*.

Theſe are, *Juſtice*, *Prudence*, *Temperance*, and *Fortitude* [3].

Juſtice, is the regard ſhown to the rights and happineſs of mankind.

Thoſe effects of juſtice which mere innocence implies, are required under the ſanction of compulſory law.

Thoſe that conſtitute beneficence, are required under the ſanctions of duty only.

Prudence is that diſcernment by which men diſtinguiſh the value of ends, and the fitneſs of means to obtain them.

Without this qualification, men are not fitted to act with any meaſure of ſteadineſs conſiſtency, or good effect.

Temperance is abſtinence from inferior pleaſures or amuſements that miſlead our purſuits.

No one can apply himſelf effectually to any worthy purpoſe, who is liable to the interruption of mean pleaſures or amuſements, that

[3] This diviſion is ſo natural, that it has always preſented itſelf when we have treated of the felicity or excellence competent to man's nature.

occupy an improper part of his time, that ſtifle his affections, or impair his faculties.

The maxim of temperance is, that a perſon, having once aſcertained what his beſt and happieſt engagements are, ought to count every moment loſt, that, without neceſſity, is otherwiſe employed.

Fortitude is the power to withſtand oppoſition, difficulty, and danger.

All the good qualities of men have a reference to ſome effect that is to be produced, and have a merit proportioned to ſome difficulty that is overcome. Hence diſpoſitions and capacities of any ſort are of no avail, without reſolution, and force of mind.

SECT. II.

Of Duties referred to Probity or Juſtice.

DUTIES referred to probity, are either private or public.

THE private duties are, *Innocence*, *Candor*, *Piety*, *Friendſhip*, *Gratitude*, *Liberality*, *Charity*, *Civility*, and *Politeneſs*.

Innocence has been obſerved to be the object of compulſory law, and is the moſt indiſpenſible characteriſtic of probity.

It implies, beſide other effects, Veracity and Faithfulneſs: the firſt oppoſed to deceit; the ſecond, to perfidy.

Candor is the juſt allowance given to the pretenſions or merits of other men, in oppoſition to prejudice, or to the ſuggeſtions of intereſt.

Piety is the exerciſe of veneration and love; firſt, towards God; next, towards thoſe who by nature or choice are proper objects of our reſpect and affection.

The expreſſions of piety to God are either fixed or arbitrary.

Its fixed expreſſions are acts of beneficence, which concur with the providence of God in promoting the good of his creatures.

Its arbitrary expreſſions are the different rites eſtabliſhed in different countries.

Friendſhip is the beneficence of private parties, proceeding from motives of particular eſteem and attachment.

This includes the reciprocal duties of parent and child. Of huſband and wife, and of all other private relations.

The duties of the parent are, to maintain, to protect, to educate, his child; and, as far as he is able, to eſtabliſh and to ſecure his ſtate or condition.

The duties of the child are, obedience, deference, and gratitude.

Many of the duties of huſband and wife are conventional; and, as ſuch, are matter of ſtrict law; but the obſervance of them muſt proceed from the heart.

Conſanguinity is a natural tie. The fortunes of men are commonly involved in thoſe of their family; and relations are, on account of this connexion, among the firſt or neareſt objects of beneficence.

Gratitude is the return made for favors received.

Men of probity are neither ungrateful nor jealous of ingratitude in others.

To require a baſe action under the title of gratitude, is to forfeit the title of benefactor.

The returns due from the grateful, cannot be aſcertained by any preciſe meaſure, nor can they be exacted by force.

The intention of the benefactor is more to be regarded, than the value of his benefit.

Were it eſtabliſhed, that returns could be exacted by force, it would follow, that benefits could not he diſtinguiſhed from fees, nor the effects of gratitude from thoſe of conſtraint.

The ingratitude of mankind is ſometimes alledged as an excuſe for neglecting good offices; but it is the buſineſs of a man to perform his own part, not to anſwer for the returns which others may, or may not, be diſpoſed to make.

Liberality is the free communication of what is ours, to oblige others.

Charity is the free communication of what is ours, to relieve the diſtreſſed.

Undiſtinguiſhing charity is pernicious in trading nations.

It is a wiſe maxim in trading nations, That no perſon able to earn his bread ſhould be maintained gratuitouſly.

But charity to thoſe who have no bread, and are unable to earn any, is a duty of the ſtrongeſt obligation, and a very important object of public concern.

Civility is a guarded behaviour in the ordinary intercourſe of ſociety, to avoid giving offence.

Politeneſs is a behaviour intended to pleaſe, or to oblige.

Civility and politeneſs are comprehended in the general character of good breeding.

To be well bred, a man muſt poſſeſs diſcernment, candor, and good will; at leaſt a ſincere averſion to offend. The effects of affectation or deſign are eaſily diſtinguiſhed.

Ill-bred men ſometimes affect great politeneſs, but they ſhock and mortify thoſe they pretend to oblige.

Flattery, exceſſive or inſincere profeſſions, are vicious.

The ſentiments of the heart ſometimes evaporate in words; and great profeſſions are, even without any intention to deceive, put in place of benefits.

The public duties of probity are, *Allegiance* on the part of the ſubject, *Protection* on the part of the magiſtrate, and *Public Spirit* in all parties.

The *Allegiance* of the ſubject, is the fidelity, deference, and ſubmiſſion, he owes to the magiſtrate.

The *Protection* due from the magiſtrate, is the interpoſition of power to preſerve the peace, and to ſecure the ſubject in the poſſeſſion of all his rights.

The *Public Spirit* due from every member of any community is,

1. A faithful diſcharge of any office intruſted for the public good.

2. A continual preference of public ſafety, and public good, to ſeparate intereſts, or partial conſiderations.

SECT. III.

Duties referred to Prudence.

IT is the object of prudence, to direct a man in what he is to wiſh for himſelf, for his friend, for his country, and for mankind.

In this ſenſe, prudence is the guide or directory in every duty: But, in its more limited acceptation, it refers more particularly to the duties which affect a man's ſtate or condition.

Theſe duties may be referred to the following heads: *Decency*, *Propriety*, *Modeſty*, *Oeconomy*, *Deciſion*, and *Caution*.

Decency is the agreeableneſs of a perſon's appearance and carriage to the ſenſe and opinion of other men.

The rules of decency are prohibitory, and forbid whatever would offend, in nudity, filth, or obſcenity.

Propriety is the ſuitableneſs of a perſon's behaviour to his nature, his age, his ſtation, and rank.

There is in all the external effects of virtue, as being ſuitable to man's nature, a propriety that may be conſidered apart from their other recommendations.

Diffidence, and a cautious approach to the manners and pretenſions of manhood, are proper to youth.

Reſolution is proper to manhood.

Calmneſs and *Deliberation* to age.

Dignity and *Reſerve*, without contemptuouſneſs or petulance, are proper to men of high ſtation.

Deference, without ſervility, is proper to men of inferior rank.

Modeſty is a proper reſerve on every ſubject of ſelf-eſtimation.

It forbids oſtentation of what we poſſeſs, of what we have done, or of what we have ſuffered.

Oeconomy is the proper adjuſtment of a perſon's expenſe to his fortune.

Where fortune conſtitutes rank and power, oeconomy is required to preſerve independence and freedom.

Senſuality and gaming are adverſe to good oeconomy.

Deciſion is a ſeaſonable and reſolute choice of what a perſon ought to do.

In ſome caſes, heſitation is equal to a total purpoſe of inaction. Every opportunity is loſt, and every meaſure comes too late.

Caution conſiſts in a proper attention to all the difficulties that may occur in what a perſon undertakes.

The great objects of caution are, not to engage in what is above our ſtrength, nor to commit ourſelves to perſons that miſlead or deceive.

SECT. IV.

Duties referred to Temperance.

DUTIES referred to temperance may be comprehended under the heads of *Sobriety* and *Application*.

Sobriety is the moderate uſe of food, and of other animal gratifications.

The general tendency of ſenſuality, is to beget habits of ſloth, and neglect of affairs.

The immoderate uſe of intoxicating drugs, or liquors, have theſe effects in a high degree. It reconciles men, otherwiſe of an active diſpoſition, to inoccupation and idleneſs.

The debauch of the ſexes being ſometimes joined with paſſion, may occaſion a continued or habitual neglect of affairs.

Application is the preference of buſineſs to amuſement.

Buſineſs is ſuppoſed to terminate in ſome ſerious purpoſe; amuſement in mere paſtime.

Diſſipation is a weakneſs of the mind, diſabling it from chuſing or proſecuting the occupations that would engage it moſt effectually, and with moſt advantage.

SECT. V.

Duties referred to Fortitude.

THE duties referred to fortitude are, *Patience*, *Intrepidity*, and *Conſtancy*.

Patience is the calm and deliberate ſuffering of any trouble or pain that occurs in human life.

Peeviſhneſs, the reverſe of patience, tends to realize imaginary evils, and to increaſe what is real.

Intrepidity is firmneſs, and preſence of mind, in the midſt of dangers.

Intrepidity is frequently the greateſt ſecurity in danger.

Conſtancy is perſeverance in all purſuits or engagements properly choſen.

The wavering are ſeldom capable of executing any purpoſe.

SECT. VI.

Uſes of Caſuiſtry.

THE rules of caſuiſtry cannot ſuperſede the judgment and good diſpoſition of a virtuous mind.

Attempts to give caſuiſtry this conſequence, proceed from ſuperſtition, and tend to confirm the moſt ſlaviſh ſuperſtition, by multiplying external obſervances, that miſlead the attention, from qualities of the heart, to matters of form.

Good diſpoſition is neceſſary to the happineſs of mankind; and dutiful conduct naturally reſults from good diſpoſition.

It is however of moment to anticipate, in general rules, the external effects of virtue.

Theſe rules render the deſcription of virtue itſelf more particular, and more complete. Being ſupported by the ſanctions of religion, and of public repute, the rules of duty may procure to ſociety the benefit of uſeful actions, even where they do not procure to the perſon acting the happineſs of a virtuous diſpoſition.

SECT. VII.

Of Merit and Demerit.

ACTIONS are ſaid to have merit or demerit, according to the nature and degree of the moral quality they bear.

Actions that expreſs good-will to mankind in the higheſt degree, have the higheſt merit.

Hence beneficent actions performed in the face of dangers, difficulties, and perſonal ſufferings, are allowed to have the higheſt merit.

Actions that proceed from malice, and give examples of miſchiefs done without inducement or provocation, are of the higheſt demerit.

We expreſs our ſenſe of demerit in the different degrees of crimes, offences, and faults.

A crime is an injury done from malice, jealouſy, revenge, avarice, or ſome other paſſion that ſets mankind at variance.

An offence is a wrong done in the gratification of ſome paſſion in its own nature conſiſtent with amity.

A fault is a wrong done from inattention or ignorance.

Faults of inattention are culpable in proportion to the moment and importance of the ſubject.

Faults of ignorance are more or leſs culpable, as the defect of knowledge argues neglect and inattention.

It is a general maxim, That ignorance of the fact may be admitted as a plea of innocence; but not ignorance of the law.

Ignorance of natural law, or of duty, would be one of the greateſt defects of a rational nature.

INSTITUTES
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PART VII.
OF POLITICS.

CHAP. I.
Introduction.

IT appears from the hiſtory of mankind, that men have always acted in troops and companies; that they have apprehended a good of the community, as well as of the individual; that while they practiſe arts, each for his own preſervation, they inſtitute political forms, and unite their forces, for common ſafety.

It may be proved, that moſt of the opinions, habits, and purſuits, of men, reſult from the ſtate of their ſociety; that men are happy in proportion as they love mankind; that their rights and their duties are relative to each other;

and, therefore, that their moſt important concerns are to be found in their mutual relations, and in the ſtate of their communities.

One great department, therefore, in which the love of mankind may operate moſt effectually, yet remains to be conſidered in the policy or eſtabliſhment of nations.

A nation is any independent company or ſociety of men acting under a common direction.

The united force of numbers, and the direction under which they act, is termed *the ſtate.*

Nations are happy who are compoſed of happy men.

Nations are wretched who are compoſed of unhappy men.

Nations may be conſidered in reſpect to their reſources, or in reſpect to their inſtitutions.

National reſources are the objects of public oeconomy.

National inſtitutions are the objects of political law.

CHAP. II.

OF PUBLIC OECONOMY.

SECT. I.

Of National Resources in general.

NATIONAL resources include every article that tends to constitute the strength of a nation, or that may be employed for its preservation.

Such articles may be referred to three principal heads; People, Wealth, and Revenue.

Some of these have been already considered, in respect to the fact, or in respect to the course which mankind actually hold in the treatment of them.

They are now to be considered in respect to their absolute and comparative value, and in respect to the means by which they are best preserved or advanced.

SECT. II.

Of Populouſneſs.

THE value of numbers is proportioned to their union and character.

Numbers without union or virtue, do not conſtitute ſtrength.

A people, in conſequence of their numbers, ſometimes become diſunited and corrupted.

If they inhabit a large and extenſive territory, they are diſunited, and loſe ſight of their community. A few engroſs the management of public affairs, and with-hold from the many every ſubject of public zeal, or political occupation. The greater part are thrown into a ſtate of languor and obſcurity, and ſuffer themſelves to become a prey to thoſe who are prepared to invade their rights.

Human nature, in ſtates of a moderate extent, has proſpered and excelled; but in ſtates overgrown, has generally declined and degenerated.

If great numbers be crowded into narrow diſtricts, or cities, they are expoſed to corruption, become profligate, licentious, ſeditious,

and incapable of government or public affections.

The union of a people depends on the arrangements or diſpoſitions made to employ them where the public ſervice requires.

The union of the people in republics, ariſes more from their affection to the community, than from the power eſtabliſhed to enforce their ſervices.

In monarchies, it ariſes from the love of perſonal dignities, to which individuals aſpire in ſerving the ſtate.

In deſpotiſm, it ariſes entirely from the power that is prepared to enforce the ſervices of the people.

The character of a people, conſidered as a national reſource, is to be eſtimated from their fitneſs to reap, and to preſerve, or to improve the advantages of their conſtitution, and to ſupport their country in purſuit of its objects.

Different characters are required under different forms of government.

Under republics of every ſort, high degrees of probity are required; under monarchy, leſs; and under deſpotiſm, leaſt of all.

The principal objects in every ſtate, next to the political conſtitution, are defence and commerce.

In reſpect to defence, men are to be eſtimated by their hardineſs, courage, and diſcipline.

In reſpect to commerce, men are to be eſtimated by their induſtry, and by their ſkill in profitable arts.

Commercial nations may value acceſſions of art, as the ſureſt means of gaining acceſſions of people; for, in circumſtances otherwiſe favorable, population keeps pace with the arts, and means of ſubſiſtence.

Inſtitutions that, by ſecuring property, and by preventing oppreſſion, encourage the ſettlement of families, and facilitate the rearing of children, are the moſt favorable to population.

Sect. III.

Of Riches or Wealth.

Men are ſuppoſed rich in poſſeſſing the means of defence, ſubſiſtence, accommodation, and ornament.

Wealth is a national reſource, becauſe it may be employed in maintaining uſeful or ſerviceable men, and in ſupplying the exigencies of ſtate.

The conſtituents of wealth may be conſidered in reſpect to their value, and in reſpect to their price.

As the uſe of wealth is to maintain and accommodate men, articles or commodities are valuable in proportion to the numbers they are fit to maintain and accommodate.

The means of ſubſiſtence are neceſſary.

The means of accommodation which contribute to the preſervation of men, and to the increaſe of their vigor and health, are next in value to the neceſſaries of life.

But articles of mere ornament are of no value at all.

The luxury of a people is to be eſtimated from their conſumption of mere ornaments.

The price of a commodity is meaſured by the quantity of any other commodity that is commonly or occaſionally given in exchange for it.

Price is moſt commonly expreſſed, and paid, in money.

Hence money is conſidered as the equivalent of all commodities, and the conſtituent of wealth.

But commodities are no leſs the equivalents of money; and abundance in any one

ſpecies, whether of money or other commodity, will buy a participation in the whole.

The price of commodities fluctuates, and keeps pace with the quantity of money in circulation, with the ſcarcity of the commodity, with the demand, and with the riches of thoſe who conſume it.

Articles of ornament are frequently of the greateſt price.

Commodities that are the work of labor, time, and ſkill, cannot continue to be ſold for leſs than will maintain the workman, and pay the whole of his advance.

As the value of commodities is meaſured by the numbers they may maintain, ſo the coſt of a commodity may be eſtimated by the numbers and time employed in producing it.

The wealth of any country is proportioned to its natural advantages, to the induſtry and ſkill of its inhabitants, and to the profit of its trade.

Natural advantages are, good climate, fertile ſoil, and uſeful materials.

Induſtry and ſkill comprehend all uſeful arts, agriculture, and manufacture, in all their branches.

The profit of trade is the profit either of the conſumer, of the producer, of the merchant, or of the ſtate.

The profit of the conſumer conſiſts in being ſupplied with neceſſary or uſeful commodities;

The profit of the producer, in the vent of ſuperfluities;

The profit of the merchant, in the balance remaining, after he has paid coſt and expenſes;

The profit of the ſtate, in the increaſe of wealth, or the accumulation of commodities in the poſſeſſion of its members.

Commerce, by accommodating all parties with what they want in exchange for what they can ſpare, enables and encourages them to increaſe their produce.

Commerce reſpecting the ſtate, is either internal or foreign.

Internal commerce is the exchange of commodities between ſubjects of the ſame ſtate.

Foreign commerce is the exchange of commodities between ſubjects of different ſtates.

In ſtates of conſiderable extent, the internal commerce is of more conſequence than the foreign commerce.

The importance of foreign commerce diminiſhes as the ſtate extends.

Commerce between nations may be conſidered in reſpect to the balance of price, or the balance of value.

The balance of price commonly ſtands for the difference ſuppoſed to remain due by one nation to another, after appretiating the whole goods that have paſſed in exchange between them.

The balance of value is the difference of real value in the whole goods that have paſſed in exchange.

The profits of foreign commerce are determined by the balance of value, not by the balance of price.

The nation that has the balance of price againſt it, may have the balance of value in its favor. It may have received the means of defence, of improving its land, or of extending its trade, &c.

The nation that owes the balance of price, will be obliged to part with its money, or ſome other commodity, in order to pay that balance.

A trade in which a balance of price is incurred, cannot be continued, unleſs there be a continual ſupply of money, or other commodity, by which the balance may be paid.

The produce of land is a continual, and may be made an increaſing ſupply.

The produce of mines, or the importation of money, may be continual.

Nations who carry on any part of their internal trade by credit and bills, need proportionally leſs ſupplies of money.

The uſe of bills in circulation tends to extend credit.

Credit is uſeful or pernicious, according to the uſe that is made of it.

It is uſeful to an induſtrious and thriving people.

It is pernicious to the ſpendthrift and the prodigal.

The expenſe of remitting money from one country to another, affects the exchange of their coins.

That nation which has occaſion to remit moſt money, muſt pay this expenſe, and is ſaid to have the exchange againſt it.

But as money may be remitted to make profit, it does not follow from the ſtate of exchange, that a nation is either gainer or loſer by trade.

The profits of trade are either mutual or partial.

They are mutual, ſo far as commerce accommodates all parties with what they want, in exchange for what they can ſpare; and enables every party to improve his peculiar materials, and to purſue his peculiar art; and procures to the merchant and carrier an adequate reward for their trouble.

In commerce mutually beneficial, that party gains moſt who receives the more uſeful commodity; and who receives the produce of much land, time, and labor, for the produce of leſs; and who, in conducting his trade, is employed in the more healthful and leaſt corrupting occupations.

The profit of trade is partial, when things of value are exchanged for things of no value.

The following are laws of commerce, founded in the preceding conſiderations.

1. That, where profits are mutual, commerce ſhould not be reſtrained by either party.

2. That, if we ſuppoſe a trade to terminate in giving the means of accommodation and ſubſiſtence in exchange for mere ornaments, ſuch trade may be wiſely reſtrained by the loſing party.

3. That monopolies are pernicious to commerce.

4. That

4. That the ſtate of a nation's wealth is not to be eſtimated from the ſtate of its coffers, granaries, or warehouſes, at any particular time; but from the fertility of its lands, from the numbers, frugality, induſtry, and ſkill of its people.

SECT. IV.

Of Revenue.

THAT part of national wealth which is allotted for purpoſes of ſtate, is the public revenue.

The public revenue may ariſe from demeſne and unappropriated ſubjects, or from taxes.

The firſt is the earlieſt ſpecies of revenue in rude nations, and is ſuited to their indolence, and ignorance of lucrative arts.

The ſecond is better ſuited to the induſtry and ſkill of commercial nations.

It is not the intereſt of commercial nations, that any ſubject ſhould remain unappropriated. While a ſubject remains unappropriated, it is commonly neglected.

Revenue arising from taxation, may increaſe together with the numbers, wealth, and frugality of the people.

In judging of the abſolute or comparative expediency of different taxes, the following axioms may be admitted.

1. That the exigencies of the ſtate muſt be provided for at any hazard or expenſe to the ſubject.

2. That, in levying taxes, no ſubject be unneceſſarily burdened.

3. That the ſecurity of the ſubject, or that of his property, be not impaired.

4. That taxes which check ſettlement and induſtry be avoided.

5. That taxes leaſt felt as grievances be preferred.

6. That the leaſt burdenſome method of collecting taxes be choſen.

N. B. The method of farm appears, from experience, to be more burdenſome than that of revenue-office.

Taxes may be referred to four general heads: Capitation, Aſſeſſment, Cuſtoms, and Exciſe.

Capitation is a tax on the perſon, and falling equally on the poor and the rich.

Capitation may be oppreſſive to the poor, without levying from the rich what they are able to furniſh to the ſtate.

Capitation is a ſymptom of deſpotic and oppreſſive government.

Aſſeſſment is a tax on riches; and is proportioned to the eſtate aſſeſſed.

Aſſeſſments may fall equitably, when property is unequally diſtributed.

Land-eſtate being moſt eaſily aſcertained and valued, is the propereſt ſubject of aſſeſſment.

The ſtock of the merchant is fluctuating; and attempts made to aſcertain it might give occaſion to frauds, or improperly diſcloſe the ſecrets of trade.

Cuſtoms are taxes impoſed on goods in commerce, and advanced by the merchant.

Cuſtoms impoſed on the neceſſaries of life, are a tax on the poor, and have the effects of capitation.

Cuſtoms impoſed on matters of ornament, or coſtly accommodation, are a tax on the prodigal, or the rich.

Such taxes are moſt agreeable to humanity and juſtice.

Cuſtoms are an encumberance on trade, and may amount to a prohibition of particular articles.

Cuſtoms, though advanced by the merchant, fall on the conſumer; but being involved in the price of the commodity, are not commonly felt as a tax.

As the merchant muſt not only be reimburſed, but have profit on all his advance, it follows, that the earlier in trade cuſtoms are paid for any commodity, the heavier they muſt fall on the conſumer.

Exciſe is a tax on commodities in uſe, and paid by the conſumer.

Exciſe may be rendered a tax, either on the rich or the poor ſeparately, or on both proportionally.

Exciſe is leſs burdenſome to the conſumer, than an equivalent raiſed in cuſtoms; but is more likely to be felt as a grievance, and to create more animoſity in the ſubject againſt the ſtate.

CHAP. III.

OF POLITICAL LAW [1].

SECT. I.

Of the Object of Political Law.

WHERE nations have occurred in the preceding parts of these notes, they have been considered only in respect to the history of their establishments, or in respect to the foundations of civil rights, and of civil obligations.

Such rights and obligations are diversified in different instances, by special conventions, which form the political and civil law of the community: But men have original rights and interests to guard, in respect to which actual establishments and conventions may be salutary or pernicious, and give rise to a question, which is now to be discussed, *What is best for mankind, in their political capacities?*

If, in discussing this question, we arrive at any general principles or rules; these may be

[1] See Instructions of the Empress of Russia. L'Esprit de Loix, tom. 1.

termed the Political Laws of Nature, and are the objects of this chapter.

To inveſtigate ſuch rules or principles, whether relating to men in general, or relating to men in particular circumſtances, is to aſcertain not *what men actually have done*, but *what they ought to do;* and is therefore properly introduced in this place as a branch of moral ſcience.

SECT. II.

Of the firſt Principles of the Political Law of Nature.

IT is a ſelf-evident propoſition, that political inſtitutions are beneficial in proportion as they contribute to the ſafety and happineſs of the people.

This principle, therefore, may be ſafely aſſumed as a firſt principle of political law.

In applying it, we muſt conſider,

1. Who are the people.
2. In what their ſafety conſiſts.
3. In what their political happineſs conſiſts.

SECT. III.

Of the People.

UNDER this denomination we are to conceive not any ſeparate order or claſs of men; but all the members of the community, whether magiſtrate or ſubject, or in whatever way diſtinguiſhed, in the caſual diſtribution of condition or rank.

Of the Safety of the People in general.

THE ſafety of the people conſiſts in the ſecure enjoyment of their rights.

That the rights of men may be ſecure, it is neceſſary, either that there ſhould be no one to invade, or that there ſhould be a ſufficient power to defend.

The firſt is not to be expected in human affairs; the ſecond is the principal object of political eſtabliſhments.

It has been the object, or the fortune, of ſome communities, to poſſeſs members who might be intruſted with any powers.

It has been the object of other communities, to grant such powers only as might be intrusted with any men.

These several cases, real or supposed, may be entitled, The government of *Innocence*, of *Virtue*, and of *Law*.

Under the supposed government of innocence, or of virtue, matters of form are easily adjusted.

Under the government of law, it is necessary, that the rights and obligations of men should be clearly expressed.

This is the object of conventional law.

In every convention is supposed the consent of parties given in person, or by others properly authorized.

The sovereign is authorized to enact laws.

Laws relate to the constitution, to civil rights, or to crimes.

The most perfect laws relating to the constitution, are such as confer on the magistrate power to restrain crimes, and to defend the community; but under limitations sufficient to prevent the abuse of this power.

The most perfect laws relating to civil rights, are such as effectually secure every person in his state.

It is the maxim of civil law, That every perſon ſhould remain in his poſſeſſion, until a better title be undoubtedly proved.

Laws relating to crimes, preſcribe the form of trials, and point out the overt acts for which certain puniſhments are appointed.

The following are maxims of natural law relating to proſecutions.

1. That every perſon is to be deemed innocent until he is proved to be guilty.

2. That no one ſhall be obliged to give evidence that may affect himſelf.

3. That no one ſhall be tortured into confeſſions or diſcoveries of any ſort.

4. That no one ſhall be puniſhed, unleſs he ſhall have committed ſome action in itſelf pernicious, or ſpecially declared by the law to be criminal.

5. That it is better the guilty eſcape, than that the innocent ſuffer.

6. That the object of puniſhment be to correct the guilty, and to deter others.

7. That the puniſhment be not ſuch as would ſhock humanity, or diſorder ſociety more than the crime.

To ſecure legal rights, it is neceſſary that the laws ſhould be ſtrictly interpreted and applied.

Under the government of law, diſcretionary powers are not ſafely intruſted, except to judges named by the parties; or to juries purged by the challenge of parties, and intereſted equally to protect the innocent and to puniſh the guilty.

In the ſecurity of rights conſiſts civil and political liberty.

Liberty is oppoſed to injuſtice, not to reſtraint; for liberty cannot ſubſiſt without the ſuppoſition of every juſt reſtraint.

Natural liberty is not impaired, as ſometimes ſuppoſed, by political inſtitutions, and is impaired only by uſurpations and wrongs.

The laws of different communities beſtow unequal privileges on their members.

Thoſe are the moſt ſalutary laws which diſtribute the benefits and the burdens of civil ſociety in the moſt equitable manner. But it is no ſmall meaſure of liberty to be ſecured in the poſſeſſion of what the law beſtows.

SECT. V.

Of the Political Happineſs of a People.

THE political happineſs of a people conſiſts in the love of their country, and in that diſtribution of rank and ſtation which is beſt ſuited to their merits and capacities.

Men who are leaſt actuated by ſeparate intereſts are beſt diſpoſed to love their country.

Men who have the feweſt adventitious diſtinctions of birth or fortune, are moſt likely to be claſſed according to their merits, to be employed ſuitably to their abilities, and to find the ſtations in which they are moſt likely to cultivate their talents, and their virtues.

That a community may be loved in the higheſt degree, its members ſhould be relieved of perſonal anxieties and occupied in what relates to the public.

They ſhould be made to conſider the ſtate as the equal parent of all, diſtributing equal benefits, and requiring equal ſervices.

Wherever the ſtate confines political conſideration to a particular order, who ſacrifice

the rights of others to their own intereſt or fancy, it cannot be loved.

The reaſon and the heart of man are beſt cultivated in arduous ſituations, and in the exerciſe of public duties.

SECT. VI.

Of the Preferable Inſtitution or Form of Government.

NOTWITHSTANDING what we may conceive, in general, as deſirable for mankind, every political queſtion muſt have a reference to ſome particular caſe, and muſt be determined according to the circumſtances of that caſe.

Men of ſpeculation have in vain endeavoured to fix a model of government equally adapted to all mankind.

One people is unfit to govern, or to be governed, in the ſame manner with another.

Nations differ in reſpect to character, and in reſpect to their ſtate or condition.

The character of a people refers to their degree of virtue, or of other principle, on which the ſtate may rely for the diſcharge of civil and political duties.

The ſtate or condition of a people is determined chiefly by their caſual ſubordinations, and by the extent of their country.

Caſual ſubordination is founded in diſtinctions, original or adventitious.

Original diſtinctions are, the differences of capacity, diſpoſition, and force.

Adventitious diſtinctions ariſe from fortune and birth.

Queſtions relating to the propriety of any political inſtitution, can be ſolved only hypothetically.

Such queſtions may be put on four different ſuppoſitions.

FIRST SUPPOSITION.

The ſuppoſition of a people perfectly virtuous, diſtinguiſhed from one another only by their original differences, and forming ſtates of ſmall extent.

Such a people are fitted to govern themſelves. They may conſent to be governed by the majority of their own number, or occaſionally by ſingle men; but to oblige ſuch men by force to reſign the ſenſe of their own minds, and to follow what is different from it, were, by the ſuppoſition, to ſubſtitute vice for virtue.

Being perfectly virtuous, every one will be willing to bear his ſhare of the public burdens, and will receive, in his turn, that confidence and truſt for which he is by his capacity and experience qualified.

They are ſuppoſed to have no adventitious diſtinctions to mar the effect of their perſonal qualities.

Being of ſmall extent, the whole may be occaſionally or periodically aſſembled.

They need no precaution againſt the commiſſion of crimes, or the abuſes of power.

The ſole object of government is, to aſſemble, and to direct their force for national purpoſes.

This, however, is a mere ſuppoſition; for no entire nation was ever known to be perfectly virtuous.

Second Supposition.

A people in whom the virtuous and the vicious are mixed; who admit adventitious diſtinctions in different degrees, and form ſtates of various extent.

This is not a mere ſuppoſition, it is realized, and the moſt general deſcription of mankind.

If there be no great ſeparation or diſtinction of rank and condition;

If virtue greatly prevail over vice;

If the ſtate be of ſmall extent;

Such a people are fit for democracy.

Their numbers admit of being aſſembled in collective bodies.

Their virtues and their inſtitutions may prevent crimes, and abuſes of power.

They may reap the advantages of democracy, in a manner that will more than compenſate its inconveniencies.

If ſuch a people be ſeparated into different orders or claſſes, they are fitted to ariſtocracy, mixed republic, or mixed monarchy.

If in two claſſes, one is diſtinguiſhed from the other by a conſiderable ſuperiority, they are fit for ariſtocracy.

Commercial nations of a ſmall extent are, in the reſult of diſtinctions that ariſe from the practice of arts, and the unequal diſtribution of property, beſt fitted to ariſtocratical government, or to mixed republic.

The inferior claſs, if not greatly debaſed or corrupted, may have a ſhare in the government, either by a negative on the determination of the ariſtocracy, or by being intruſted, not with an active part in the government,

but only with the choice of thoſe who are to act for them.

The ſame ſuppoſition applied to ſtates of a greater extent, and to a people among whom a greater variety of rank is eſtabliſhed, will juſtify the preference of mixed monarchy.

It were happy for mankind, if, together with changes of circumſtances, they could always make ſuitable changes in government, and no more.

Where changes of circumſtance are gradual, correſponding changes of government take place; but ſudden innovations of any ſort, precipitate men into ſituations in which they are not qualified to act.

THIRD SUPPOSITION.

A people on whoſe vanity, and ſenſe of perſonal importance, rather than virtue, the ſtate muſt rely for the diſcharge of the civil and political duties; a people amongſt whom a continual adventitious ſubordination takes place, without any example, or any deſire, of equality.

Such a people are not fit to govern themſelves.

The

The continual gradation of rank muſt terminate in a prince or monarch.

They require monarchy as a bond of union, and as a ſource of honor.

While every one attends to what concerns himſelf, the monarch, for the preſervation of his own perſon and dignities, muſt attend to the public ſafety, and public order.

The ſubordinate ranks will court his favor, and conſult their own dignity, by actions, either ſplendid in themſelves, or uſeful to the ſtate, whilſt they are ſerviceable to the king.

The members of the ſtate are drawn together, and moved in a body, not by their love to the community, or to mankind, but by their veneration for their common ſuperior, and by their expectations from their common ſource of preferment and honor.

The maxims of honor are not ſuſceptible of ſudden changes; and the dignities of family though for the moſt part conferred by the prince, are hereditary, and therefore independent.

Both theſe circumſtances oblige the prince to govern according to fixed and determinate laws.

FOURTH SUPPOSITION.

A people perfectly vicious, without ſenſe of honor, or hereditary diſtinctions.

Such a people muſt be reſtrained by force.

Every conſtitution, even that which confides moſt in the virtue of the ſubject, muſt employ force to repreſs crimes.

If the whole people be inclined to commit crimes, and be reſtrained only by fear, the proſpect of prompt and terrifying puniſhments muſt be continually placed in their view.

This ſuppoſition may be employed as an apology for deſpotiſm.

Where every perſon is diſpoſed to commit crimes, the fewer that have power, ſo much the better.

When all power is committed to one perſon, even ſuppoſing himſelf to be a criminal, it is his intereſt, for the moſt part, to reſtrain the crimes of others.

His ſeverities, or cruelties, by the ſuppoſition, can no where afflict the innocent.

His dominions, though, like a priſon, committed to the keeping of vile and mercileſs men, is nevertheleſs the only fit place to receive thoſe who cannot be otherwiſe reſtrained from injuſtice.

But this caſe, like that which was firſt ſtated, of a people perfectly virtuous, is a mere ſuppoſition, and never was realized in the character of any people.

Men are generally as far from the extreme of perfect vice, as they are from that of perfect virtue.

They who contend, that deſpotical government is in fact the beſt for mankind, proceed upon four ſuppoſitions, all equally violent and falſe.

1. That all men would commit crimes if they durſt.

2. That crimes cannot be reſtrained without diſcretionary powers.

3. That a perſon to whom diſcretionary powers are committed, will employ them to repreſs the crimes of others, but not to commit crimes of his own.

4. That the ſole object of government is, to control the actions, never to cultivate the nature or form the characters of men.

Theſe ſuppoſitions are contrary to reaſon and to experience.

The fact is, that the manners of men are various; and that the ſame penal laws, and forms of juſtice, by which a people may be

ſucceſsfully governed in a virtuous age, will not always be ſufficient to reſtrain them in ages corrupted.

When the criminal paſſions increaſe in violence and boldneſs, it may be neceſſary to increaſe the meaſure of puniſhments.

When crimes multiply, and criminals are enabled to employ the forms of law as the ſubterfuges of iniquity, it may be neceſſary to alter ſuch defective forms: But it never can be neceſſary to deprive the innocent of all the defences of reaſon and juſtice; for the ſame reaſon and juſtice which protect the innocent, may condemn the guilty.

In times of occaſional tumult, popular frenzy, or rebellion, it may be neceſſary to treat thoſe who commit ſuch crimes, not as ſubjects amenable to the laws, but as enemies, who, by invading the public peace, have deprived every citizen of his ſafety, and who therefore cannot have the benefit of laws until the public has recovered its ſecurity.

Such domeſtic diſorders, like foreign wars, render diſcretionary power occaſionally neceſſary: But this neceſſity is only temporary.

For the moſt part, even in corrupted ſtates, it is as much the intereſt of the ſubject as of

the magiſtrate, to keep the peace, and to repreſs crimes.

Abſolute deſpotiſm is an extreme of ideal corruption: Every avoidable approach to it is an uſurpation and a national misfortune.

It tends to produce that extremity of vice to which it is ſuppoſed to be adapted as a remedy.

The object of deſpotical government, is not to ſecure the ſubject in the poſſeſſion of his rights, but to make him a property; not to ſuppreſs vice, but to ſuppreſs the higheſt and nobleſt virtues of the heart, public ſpirit, independence, and courage.

SECT. VII.

Of the fit Diſtribution of Truſt and Office.

As men of different characters and in different circumſtances, require a variety of inſtitutions, ſo different conſtitutions of government require or imply a different diſtribution of truſt and office.

In free governments of every denomination, where law is neceſſary, the law muſt be enacted, interpreted, and executed. Hence the offices

or functions of ſtate are, legiſlation, juriſdiction, and execution.

Legiſlation, under every conſtitution of government, is the immediate act of the ſovereign power, and cannot be delegated without transferring the ſovereignty.

This rule does not exclude the concurrence of councils, nor the obſervance of forms ſuited to the conſtitution.

Under democracies, the legiſlation is exerciſed by the collective body; but it is not neceſſary that the collective body ſhould deliberate, as well as decide.

The collective body may name ſenates, or ſelect councils, to prepare queſtions of legiſlation.

They may vary the form of collecting the votes, or of promulgating the law.

They may fix, at diſcretion, what numbers are required to conſtitute a legal aſſembly, and what proportion of thoſe preſent muſt concur in a public reſolution.

Under ariſtocracies, the collective body of thoſe who govern, whether by elective or hereditary title, muſt exerciſe the legiſlature.

They may act, notwithſtanding, under the ſame forms and limitations that have been

mentioned as compatible with the ſovereignty of the whole people.

Under monarchy, the legiſlature is exerciſed by the king.

The king ſtands in need of councils; and his legiſlative power may be qualified by the forms of regiſtration, or promulgation, required to give the force of law to his edicts.

In mixed government of any ſort, the legiſlature muſt be exerciſed by the concurrence of all the collateral powers.

If a law could be enacted without the concurrence of any ſingle power, that power might be ſuppreſſed by the others.

If the ſuppoſed collateral powers were to aſſemble, and decide queſtions of legiſlation by the majority, any way defined, the government would ceaſe to be mixed.

The ſovereignty of collateral powers is compatible with a variety of forms relating to the propoſing and the enacting of laws.

Sovereigns of any denomination, who have ſuffered courts of juſtice to follow cuſtom as a rule of deciſion, are to be underſtood as having eſtabliſhed that cuſtom into law.

Juriſdiction, or the office of judge, is, to interpret the law, and to apply it in particular caſes.

This office, under every conſtitution, ſhould be disjoined from that of legiſlation.

The ſovereign, being accuſtomed to will, or to command, cannot ſubmit merely to interpret, or to follow a rule.

Particular caſes are modified by circumſtances that create prejudice, or excite paſſion.

The ſovereign, having no ſuperior, may follow prejudice or paſſion at diſcretion.

The ſovereign having enacted the law, would, under the influence of ſpecial motives, make free to diſpenſe with it.

Popular or numerous aſſemblies would be ſwayed by faction.

Princes would be ſwayed by their paſſions, and by ſolicitation.

Two queſtions may be put relating to judicature:

1. Who ought to judge?

2. Of what numbers are courts of juſtice beſt compoſed?

1. Wherever laws are greatly multiplied, the knowledge of law becomes a profeſſion.

No judgment can be ſafely given without the counſel of thoſe who are knowing in the law.

The office for which counſel is neceſſary, is that of pointing out the law, and the whole law, in any particular caſe.

Perſons who are not lawyers by profeſſion, may, in the manner of the judges at Rome, and of the juries in Great Britain, interpret and apply a law which is pointed out to them.

Beſide the counſel employed by parties, the public may employ counſel for juſtice and law. This is the nature of official judges in Great Britain.

Juriſdiction committed entirely to official judges, is attended with the following inconveniencies.

The official judge being a continual magiſtrate, may entertain the prejudices of the magiſtrate againſt the ſubject.

The peculiar prejudices and partialities of the official judge, if he has any, may be known.

They who enjoy his favor, are tempted to treſpaſs in hopes of impunity, or to commence vexatious ſuits in hopes of ſucceſs.

They who apprehend his diſpleaſure, do not feel themſelves ſecure even in poſſeſſion of innocence.

Theſe inconveniencies are removed, in a great meaſure, by the eſtabliſhment of judicatures in the Roman form, or in that of juries.

The juryman is equally intereſted to protect the innocent, and to condemn the guilty.

Juries may therefore be intruſted with ſome meaſures of diſcretionary power, to mitigate the rigors of law, or to ſupply its defects.

Where a people are divided into a number of ſeparate orders and claſſes, as thoſe of Patrician, Equeſtrian, and Plebeian, Lords and Commons, the rights of one order are not ſafely intruſted to the judgment of another; and it would be expedient, that every party were judged by his peers.

2. Under popular or republican governments of any ſort, courts of juſtice are beſt compoſed of few members.

Courts compoſed of many members carry popular faction and party into the judgment-ſeat. The individual hopes to ſcreen himſelf even in judging falſely, under the authority and credit of the whole body.

No one is accountable; no one is conſpicuous; all are tempted to humor their party, and to judge at diſcretion.

Under monarchy, courts of juſtice are beſt compoſed of many.

Here the influence of the crown is more to be dreaded, than the faction of the people.

This influence can leſs overawe or corrupt numerous bodies, than ſingle men, or a few.

Numerous bodies, in their deliberations, admit of the zeal and ardor that animate popular aſſemblies; and even whilſt they do not judge more impartially than ſingle men would do, they judge with more independence.

The ſpirit of faction, which in republics is the greateſt corruption, in monarchy tends to prevent a greater ſervility to thoſe in power.

The office of the executive is, to apply the force of the ſtate for national purpoſes:

1. To give effect to the laws.

2. To defend the community againſt foreign enemies.

Occaſions on which the executive muſt be exerted, are either continual or caſual; and in caſe of danger from abroad, require ſecrecy and deſpatch.

The ſovereign in republican governments, conſiſting of the whole people, or of numerous bodies, cannot exerciſe the executive.

Such bodies cannot be continually aſſembled, nor ready to aſſemble at all times.

The reſolutions of the executive require more ſecrecy and deſpatch than can be had in any numerous or popular aſſemblies.

Affairs that come in courſe, or that admit of delay, may be committed to ſenates, or to ſelect councils. Such are the management of public revenue, negotiations, and treaties.

Affairs that may come fortuitouſly, and by ſurpriſe; that will not admit of delay, muſt be committed to ſingle men; as to the magiſtrate, or officer who has the keeping of the peace, and the leading of armies.

Under monarchy, whether pure or mixed, the king is capable of every branch of the executive.

But he ought to delegate whatever tends to render his power terrible or odious;

To reſerve what renders it an object of reſpect or affection.

The abuſes of the executive power are variouſly reſtrained under different conſtitutions.

In republics, they are reſtrained by the ſhort duration of office in the perſon of any individual, by the vigilance and emulation of his competitors, if not by his own virtue and moderation.

Thoſe were the happieſt republics, who educated virtuous citizens, to whom any powers might be ſafely intruſted.

Some of the moſt important powers, both in Sparta and at Rome, were diſcretionary.

In monarchy, the abuſes of the executive are reſtrained by the forms of law, and by the privileges of ſubordinate ranks.

In all conſtitutions they may be reſtrained by having magiſtrates and miniſters accountable.

By the integrity of thoſe who conſtitute the force committed to the direction of the executive.

When the armed force is part of the people, it is their intereſt, as well as their duty, to reſrain from abuſe.

SECT. VIII.

Conclusion.

IT may appear from a comparison of the fact, as stated in the history of the species, with what is now stated as the law of political expedience, that men generally accommodate their establishments to their circumstances, and that, upon the supposition of such circumstances, there is little room for improvement.

Men of probity and courage, in small communities, have recourse to Republican government.

Men distinguished by inequalities of birth, and actuated by sentiments of honor, have ranged under monarchs.

Large empires continue to be governed, as they are formed, by force.

Mixed descriptions of men, led by the variety of circumstances in which they are placed, have exhibited a corresponding variety of mixed governments. And the issue in every case has been such, that where we cannot

materially change the character and circumſtances of the people, it would be folly to attempt any radical change in the form of government.

In ſpeculation, we form general views and look into diſtant conſequences; but the firſt maxim of ſound ſpeculation is, where matters go tolerably well, to beware of change.

If therefore it be ſuppoſed, that an itch of political reformation is dangerous to mankind, it is not ſupported by knowledge.

The ignorant are as apt to tamper with the beſt conſtitution, as to reform the worſt. In general, they are tenacious of cuſtom: but in ſome particulars are deſirous of change.

The genius of mankind leads to progreſſion. Every order of men, and every individual, apprehend an inconvenience which they would remove, or an advantage they would gain, and they would break through every form to attain their end.

Arts, commerce, population, as they advance or decline, give riſe to new circumſtances, and ſuggeſt ſucceſſive arrangements.

The people under the preſſure of great inconveniences, break out into revolts and effect

great revolutions; under the preſſure of the leaſt inconvenience they ſeek for proportional relief, and in the proceſs of time, by ſmall alterations, produce a material and ſenſible effect.

In this current, we may wiſh to accelerate, retard, or direct the motion, but it is the nature of man to proceed. In ſteering our courſe, it is material to know the tendency of changes, whether the effect is to be near or remote.

In every political deliberation, it is material to know what is beſt for mankind, that we may depart from it as little as poſſible.

A well informed underſtanding, in the worſt ſituations, may ſecure ſome happy effects, though far ſhort of the ideal perfection which the ſpeculative are apt to look for in the affairs of men.

Political intereſts, are thoſe of all others which ought leaſt to be committed to chance. Our ſafety, our peace, our relation one to another, our improvement or degeneracy, depend in a great meaſure on our political inſtitutions. By theſe our rights are preſerved

or

or violated, our relation is made to approach to that of equals, or to that of maſter and ſlave, crimes are repreſſed or licenſed.

Political inſtitutions tend to augment the good or the evil with which they are fraught.

Human affairs, in ſome inſtances, tend to improvement; in others, to corruption.

The inſtitutions of men, in one caſe, promote their improvement; in the other, haſten their corruption.

Inſtitutions that proceed on maxims of juſtice, that engage the minds of citizens in public duties, that teach them to eſtimate rank by the meaſure of perſonal qualities, tend to preſerve and to cultivate virtue.

On the contrary, inſtitutions by which men are ſtripped of their rights, or by which they are made to hold their poſſeſſions as diſcretion, under which they are ſuppoſed governable only by force, or by the fear of puniſhment, tend to beget tyranny and inſolence in the powerful, ſervility and vileneſs in the dependent; to *cover every viſage with paleneſs* [2], and to fill every heart with jealouſy or dejection.

[2] Vid. L'Eſprit des Loix, liv. 6. c. 5.

The greateſt and moſt extenſive benefit which the wiſe can procure, is the eſtabliſhment or preſervation of juſt inſtitutions.

The greateſt injury that wicked men can commit, is the overthrow or corruption of ſuch inſtitutions.

THE END.